

PART II

CODE OF ORDINANCES

Chapter 1

GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the “Code of Ordinances, City of Westbrook, Maine”, and may be so cited.

State law reference – Municipal authority to codify, 30 M.R.S.A. Sec. 2154.

Sec. 1-2. Rules of construction and definitions.

In the construction of this Code, and of all ordinances, the rules and definitions set out in this section shall be observed, unless such construction would be inconsistent with the manifest intent of the city council. The rules of construction and definitions set out herein shall not be applied to any section of the Code which shall contain any express provision excluding such construction, or where the subject matter of context of such section may be repugnant thereto.

Generally. All general provisions, terms, phrases and expressions contained in this Code shall be liberally construed in order that the true intent and meaning of the city council may be fully carried out.

In the interpretation and application of any provisions of this Code, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

City shall mean the City of Westbrook, Maine.

City council, council. Whenever the words “council” or “city council” are used, they shall be construed to mean the city council of the City of Westbrook, Maine.

Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall not be counted in computing the time, but the day on which such proceeding is to be held shall be counted.

Corporate or city limits. The term “corporate limits” or “city limits” shall mean the legal boundaries of the City of Westbrook, Maine.

County. The words “the county” or “this county” shall mean the County of Cumberland in the State of Maine.

Delegation of authority. Whenever a provision appears requiring the head of a department or some other city officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Mayor shall mean the mayor of the city.

Month. The word “month” shall mean a calendar month.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

Oath. The word “oath” shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases, the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed”.

Officials, boards, commissions. Whenever reference is made to officials, boards and commissions by title only, i.e., “City Council”, “City Clerk”, “the Mayor”, etc., they shall be deemed to refer to the officials, boards and commissions of the City of Westbrook.

Or, and. “Or” may be read “and” and “and” may be read “or” if the sense requires it.

Owner. The word “owner”, applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership or joint tenant, of the whole or of a part of such building or land.

Person. The word “person” shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property included every species of property except real property, as herein described.

Preceding, following. The words “preceding” and “following” mean next before and next after, respectively.

Property. The word “property” shall include real and personal property.

Real property shall include lands, tenements and hereditaments.

Shall. The work “shall” is mandatory.

Sidewalk. The word “sidewalk” shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature or subscription includes a mark when the person cannot write.

State. The words “the state” or “this state” shall be construed to mean the State of Maine.

Street. The word “street” shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public ways in the city. And shall include all areas thereof embraced between the property lines or dedicated to the public use.

Tenant or occupant. The words “tenant” or occupant”, applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such buildings or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Written or in writing shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word “year” shall mean a calendar year, except that the municipal financial year shall be on a fiscal year basis from July first through June thirtieth of each year commencing on July 1, 1982. (Ord. Of 1-26-81, Sec. 1)

State law reference – For similar provisions, see 1 M.R.S.A. Sec. 72.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-4. Amendments to Code.

All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein, or in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the city council.

Sec. 1-5. Unauthorized alteration or tampering with Code.

It shall be unlawful for any person in the city to change or amend, by additions or deletions, any part or portions of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

Sec. 1-6. Effect of repeal of ordinances.

When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it shall be therein so expressly provided.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

Sec. 1-7. Severability of parts of Code.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any or the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-8. General penalty for violation of Code; continuing violations.

Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine of not more than two hundred fifty dollars (\$250.00), plus costs. All fines shall be recovered on complaint to the use of the city. Each day any violation of any provisions of this Code or of any ordinance shall continue shall constitute a separate offense. (Ord. of 2-03-86)

**Chapter 2
ADMINISTRATION**

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ARTICLE I. IN GENERAL

Sec. 2-1. Seal described.

The seal of the city, which was adopted on June 4, 1891, by vote of the city government, is described as follows:

In the center of the seal is a facsimile of the vessel in which Colonel Thomas Westbrook, for whom the city was named, came to Falmouth, bearing the king's commission to select masts for the Royal Navy. Surmounting this is the crest of the Westbrook Royal Navy. Surmounting this is the crest of the Westbrook Family, a mailed knee and foot. Around the seal are the words "City of Westbrook", and the date 1814, date of incorporation of the town, and 1891, date of incorporation of the city.



State law reference – Municipal authority to adopt a seal, 30 M.R.S.A. Sec. 1902.

Sec. 2-2. Assessors to maintain index of deeds, instruments.

It shall be the duty of the assessors for the city to keep or cause to be kept an accurate index of all deeds of lands purchased by or sold by the city, including tax deeds acquired by the city and any and all instruments of transfer or real estate in the name of the city, and such instruments shall be safely kept on behalf of the city in a place of safe storage as shall be determined by the board of assessors. (Ord. of 8-11-59)

Sec. 2-3. Standard of conduct relative to city contracts.

No city officer, employee or agent shall solicit or accept any gratuity, favor or anything of monetary value from any contractor or potential contractor with the city relative to the procurement of any supplies, equipment, construction and/or other services with municipal, state and/or federal grant funds; and the offering and/or giving of any such matter of monetary value by such a contractor or their agents to any city officer, employee or agent is hereby prohibited. A violation of the provisions of this section shall subject the offending municipal employee to disciplinary action, including discharge of employment, and in addition thereto all violators shall be subject to the penalty provisions of section 1-8 of the city Code. (Ord. of 4-19-76)

Secs. 2-4 – 2-12. Reserved.

ARTICLE II. CITY COUNCIL

Sec. 2-13. Time of regular meetings.

The council shall hold regular meetings on the first Monday of each month at 7:00 p.m. Whenever a regular meeting falls on a legal holiday, the meeting shall be held the following Monday night at the same time.

Sec. 2-14. Quorum established.

At all meetings of the council a majority shall constitute a quorum.

Sections 2-15 through 2-39 were deleted by Order #6; 2-5-96)

Sec. 2-15 through 2-50. Reserved.

ARTICLE III. ADMINISTRATIVE OFFICERS¹
DIVISION 1. GENERALLY

Sec. 2-51. Administrative officers established.

By the provisions of section 30, subsection (VII) of the charter, the following administrative officers are hereby ordained and established: Administrative assistant, city electrician, city engineer, city physician, city solicitor, constables, director of civil defense, director of public works, electrical inspector, health and license inspector, measurers of wood and bark, regents of Memorial Library, surveyors of lumber, trustee of Woodlawn Cemetery, city arborist, city planner. (1942 Rev. Code, Ch. VII, Sec. 1; Ch. IX, Sec. 1; Ch. XXXVIII, Sec. 1; Ch. XXXIX, Sec. 1; Ord. of 12-19-50; Ord. of 6-20-61; Ord. of April 1963; Ord. of 8-23-63; Ord. of 9-14-64; Ord. of 4-6-70; Ord. of 12-11-72; Ord. of 5-02-88)

Cross references – Office of building inspector established, Sec. 6-3; office of housing inspector established, Sec. 17-21.

State law reference – Municipal authority to appoint constables, 30 M.R.S.A. Sec. 2401.

Sec. 2-52. Appointments by mayor.

Unless otherwise specified, the administrative officers enumerated in section 2-51 of this Code shall be appointed by the mayor without the approval of the council. (1952 Rev. Code, Ch. VII, Sec. 1; Ch. IX, Sec. 2; Ch. XXXVIII, Sec. 1; Ch. XXXIX, Sec. 1)

Sec. 2-53. Appointment of administrative officers; terms.

The trustee of Woodlawn Cemetery shall hold office for three (3) years and the regent of Memorial Library for five (5) years. Under section 30 of the charter, the remaining administrative officers shall be appointed on the first Monday of January, annually, or as soon as may be thereafter, and shall hold their respective offices for the term of one (1) year from the first Monday of January unless sooner removed. (1942 Rev. Code, Ch. VII, Sec. 1; Ch. IX, Sec. 3; Ch. XXXVII, Sec. 1; Ch. XXXIX, Sec. 1; Ord. of 6-20-61; Ord. of 9-14-64; Ord. of 4-6-70)

Cross references – Appointment of housing inspector, Sec. 17-21; municipal officers to appoint building inspector, term, Sec. 6-4.

¹ **Charter reference** – Mayor's appointive powers, Sec. 9.

Sec. 2-54. Reappointment of administrative officers appointed by mayor and confirmed by council.

Any person who has been appointed an administrative officer with the approval of a three-quarter (3/4) vote of the council may be reappointed by the mayor for a subsequent and successive one (1) year term of office without the approval of the council, but all such terms must be successive. (Ord. of 6-20-61; Ord. of 9-14-64; Ord. of 4-6-70)

Sec. 2-55. Mayor's authority to manage, control city property.

The constructions, care, custody, management and repair of all city property not expressly intrusted to some department of the city shall be under the direct management and control of the mayor. (1942 Rev. Code, Ch. XI, Sec. 1)

Sec. 2-56. Salaries of city officials.

All salaries of city officials shall be established by ordinance by the council and such ordinances shall in no way be affected by the adoption of this Code of Ordinances. (1942 Rev. Code, Ch. VII, Sec. 2; Ord. of 6-20-61; Ord. of 9-14-64; Ord. of 4-6-70)

Charter reference – Council to establish salaries of officers by ordinance, Sec. 33.

Sec. 2-57. Reports of administrative officers.

All administrative officers of the city shall submit an annual report to the mayor. Such report shall be due no later than the last day of January, and it should cover the activities of their respective departments during the preceding year. In addition to an annual report, the administrative officers shall make such periodic reports as are required by the mayor.

Cross references – Annual report required of treasurer regarding cemetery account, Sec. 7-33; electrical inspector to make quarterly report, Sec. 11-15.

Sec. 2-58 – 2-62. Reserved.

DIVISION 2. ADMINISTRATIVE ASSISTANT

Sec. 2-63. Appointment; approval of council.

The administrative assistant to the mayor shall be appointed by the mayor subject to the approval of a three-fourths (3/4) vote of all the members of the council by a roll-call vote. (Ord. of 6-20-61)

Sec. 2-64. Removal procedure.

Any appointee to the office of administrative assistant to the mayor may be removed from office by the mayor, by a written order, for any cause which he shall in his official

discretion deem sufficient, which cause he shall assign in his order of removal in accordance with the provisions of section 24 of the Charter. (Ord. of 6-20-61)

Sec;. 2-65. Duties generally.

The administrative assistant to the mayor shall prepare and furnish such data and statistical reports relative to the operation of the municipal affairs of the city and its various departments as the mayor or the council may from time to time require, including but not limited to the following:

- (a) Prepare and present to the council with the concurrence of the mayor periodic reports of the activities of the city's various departments including their receipts and expenditures.
- (b) Prepare and present to the council with the concurrence of the mayor an annual report of the operation and cost of the city government for the preceding fiscal year and a proposed budget for the next fiscal year.
- (c) Perform such other municipal administrative duties as the mayor or the council may from time to time prescribe. (Ord. of 6-20-61)

Sec. 2-66. Assistant to be executive assistant, purchasing agent.

The administrative assistant to the mayor shall be the executive assistant to the mayor, and the purchasing agent for the city. (Ord. of 6-20-61)

Sec. 2-67 – 2-73. Reserved.

DIVISION 3. AUDITOR²

Sec. 2-74. Council to select and remove; term; alternate auditor.

The council shall, as soon as may be after its organization each year, choose an auditor of accounts, who shall hold office for the term of one (1) year, and until his successor is chosen and qualified.

A majority of the votes of all the members of the council taken by roll call shall be necessary for the choice of such auditor, and he may be removed by the affirmative vote of a majority of all the council taken by roll call.

The council may appoint an alternate auditor of accounts, subject to the provisions of this chapter, who shall be available to perform the duties of the city auditor in his absence. (1942 Rev. Code, Ch. IV, Sec. 1; Ord. of 4-18-89)

Sec. 2-75. Expiration of term.

² **Charter reference** – Selection, term and removal of the city auditor, Sec. 13.

Cross reference – Auditor's duties regarding Walker Memorial Library, Sec. 19-6.

State law reference – Municipal accounts and audits generally, 30 M.R.S.A. Sec. 5251-5256.

The auditor of accounts shall hold office until the third Monday in January and until his successor shall be qualified. (1942 Rev. Code, Ch. XXII, Sec. 1)

Sec. 2-76. Knowledge of bookkeeping required.

The auditor of accounts shall possess a practical knowledge of bookkeeping. (1942 Rev. Code, Ch. IV, Sec. 2)

Sec. 2-77. Vacancy to be filled.

When for any cause, the office of auditor of accounts shall become vacant, the council shall, at the next meeting thereafter, elect his successor by a roll-call vote as provided by the charter for the election of an auditor. (1942 Rev. Code, Ch. IV, Sec. 9)

Sec. 2-78. Bond, sureties.

The auditor of accounts shall be sworn to the faithful performance of the duties of his office and give bond in such sum as the council may prescribe with sureties to be approved by the council for the faithful performance of his duties, the delivery to his successor, or to the treasurer, of all books, accounts, papers and other documents and other property which shall belong to such office. (1942 Rev. Code, Ch. IV, Sec. 2)

Cross reference – Bond required of auditor, Sec. 31.

Sec. 2-79. Closing annual accounts.

In the discharge of the auditor's duties and after the expiration of the term of office of the council by whom he was elected, he shall have the assistance of the committee on accounts and the committee on finance of the council, who are hereby instructed to render their assistance in the approval and payment of all bills which have been incurred by authority of the council, including all salaries, the school bills for the completion of the school year, which bills shall have the approval of the outgoing school committee, and all notes and bonds of the city paid by the city prior to the third Monday in January, but not including the bills for the current expenses of the city, such as road bills, the support of the poor, etc., incurred later than the last day in December of each year, which has been named as the close of the financial year, in section 2-175 of this code, nor to include any bills incurred by reason of the action of the newly elected city government. (1942 Rev. Code, Ch. XXII Sec. 1)

Sec. 2-80. Maintain books; notify council of depletion of appropriations.

The auditor of accounts shall keep, in a neat methodical style and manner, a complete set of books under the direction of the committee on accounts, wherein shall be stated among other things the appropriation for each distinct object of expenditure, that whenever the appropriation for any specific object shall have been expended, he shall immediately communicate the same to the council in order that no further expenditure shall be made,

except by an additional appropriation or by transfer of an unexpended balance from some other appropriation. (1942 Rev. Code, Ch. IV, Sec. 4)

Sec. 2-81. Render assistance to committee on accounts, finance.

The auditor of accounts shall assist the committee on accounts in the settlement of the financial affairs of the city and render such other service as the committee on accounts or finance may from time to time require. (1942 Rev. Code, Ch. IV, Sec. 8)

Sec. 2-82. Procedure for advancing money on contracts; auditor's responsibility.

In all cases where it is necessary to advance money on contracts for work begun but not completed, the mayor may, upon being satisfied of such necessity, draw upon the treasurer for the amount to be advanced, which draft shall in no case exceed eighty percent (80%) of the work done or material actually delivered under such contract at the time the draft is made. The draft shall be countersigned by the auditor of accounts and paid by the treasurer, and the auditor shall charge the amount to the proper person and account. (1942 Rev. Code, Ch. IV, Sec. 3)

Sec. 2-83. Duty to examine, receive and record bills, accounts.

The auditor of accounts shall receive all bills and accounts from persons having demands against the city, examine them in detail, post, have them filed under appropriate heads and enter the same in his books against the specific appropriations for the several departments, and if he shall have any doubts as to the correctness of any bill, he shall not enter the same until approved by the committee on accounts. (1942 Rev. Code, Ch. IV, Sec. 5)

Sec. 2-84. Submission of bills against city to committee on accounts; time of payment.

The auditor of accounts shall, on or before the twenty-fifth of each month, lay before the committee on accounts all bills against the city received by him for their examination and approval, and all bills so examined and approved shall be payable by the treasurer on and after the first day of the next month thereafter. The specific day of each month on or before which the auditor shall lay his accounts before the committee on accounts may be changed at the discretion of the committee on accounts. (1942 Rev. Code, Ch. IV, Sec. 10)

Sec. 2-85. Account to be opened charging treasurer with bonds, etc.

The auditor of accounts shall open an account with the treasurer charging him in detail with all bonds, notes, mortgages, leases, rents, interest and other sums receivable, and if the treasurer shall be collector of taxes, shall charge him with the whole amount of taxes

placed in his hands for collection. If the collector be a separate officer, the amount to be collected shall be charged to him. (1942 Rev. Code, Ch. IV, Sec. 7)

Sec. 2-86. Annual report; contents.

As soon after the third Monday in January as practicable, it shall be the duty of the auditor to prepare an annual financial report of the city. The financial report shall:

- (a) Show distinctly and definitely as possible, the financial standing of the city.
- (b) Contain an estimate of the amount of money to be raised for the ensuing year, under the respective heads of appropriation as the council may direct.
- (c) Contain a statement of all receipts from each source of income, its revenue from taxes and all sources and an itemized statement of all expenditures, as required by statute under their various heads, and such financial statement as made by him shall have the approval of the committee on accounts.
- (d) Contain a schedule of all property owned by the city and an exhibit of the liability of the city.
- (e) As far as practicable conform to the accounts of the treasurer. (1942 Rev. Code, Ch. IV, Sec. 6; Ch. XXII Sec. 1)

State law reference – Municipal officers to publish an annual report, requirements, 30 M.R.S.A. Sec. 2203.

Secs. 2-87 – 2-93. Reserved.

DIVISION 4. CITY CLERK³

Sec. 2-94. Duties generally.

The city clerk shall perform all duties prescribed by statute for the government of town clerks that do not conflict with the provisions of the Charter; he shall keep full records of all proceedings of the council and municipal officers, which records shall be subject to the inspection of the public at reasonable hours; give notice to the chairman of all committees appointed by authority; preserve all papers belonging to the city and arrange them in suitable files prepared for that purpose; preserve all city ordinances after final passage in a book kept for that purpose alone; and perform such other duties as the council may from time to time prescribe. (1942 Rev. Code, Ch. III, Sec. 1)

Cross references – Clerk to issue notice to elected officials, Sec. 10-9; clerk to notify police chief of licenses granted, issue certificates, Sec. 20-3; clerk to retain copy of dog license, Sec. 4-31; clerk to issue dog license tag, Sec. 4-32; general duties of the clerk in licensing taxicab drivers, Sec. 33-26 et seq.

Sec. 2-95. Purchasing authority; account of articles bought.

The city clerk shall each year, as soon as the council is organized, make an estimate of the blank books, stationary and blank forms required by the mayor, council and all other departments of the city government for the current municipal year, and with the auditor

³ **Cross reference** – Clerk's fees for licensing dogs, Sec. 4-30.

shall make a contract with some responsible party to furnish such material; he shall also purchase such other books, stationary and blank forms as the council may from time to time direct; he shall keep an account of all articles purchased by him, together with the amounts expended therefore, which, together with monies received by him for use of the city, shall be laid before the council. (1942 Rev. Code, Ch. III, Sec. 2)

Secs. 2-96 – 2-99. Reserved.

DIVISION 5. CITY ELECTRICIAN

Sec. 2-100. Duties generally.

The city electrician shall have charge of the fire alarm system, and of the police alarm system, and of all fixtures and wires and electrical apparatus belonging to each and both of such systems; and, under the direction of the chief engineer of the fire department, shall make or cause to be made all necessary repairs, changes and additions to such systems so that they shall at all times be in good working order. (1942 Rev. Code, Ch. XXXIX, Sec. 2)

Sec. 2-101 – 2-104. Reserved.

DIVISION 6. CITY ENGINEER⁴

Sec. 2-105. Qualifications generally.

The city engineer shall possess knowledge and skills regarding engineering principles. (Ord. of 9-14-64)

Sec. 2-106. Removal.

Any appointee to the office of city engineer may be removed from office by the mayor, by a written order, for any cause which he shall in his official discretion deem sufficient, which cause he shall assign in his order of removal in accordance with the provisions of section 24 of the Charter. (Ord. of 9-14-64)

Sec. 2-207. Function of Office.

The function of the office of city engineer shall be as follows:

- (a) Make surveys. To make surveys, including levels, prepare plans and profiles, write specifications and perform other related engineering work in connection with streets, sewers and other public structures.

⁴ **Cross reference** – Engineer's report required prior to the approval of a subdivision, Sec. 30-48 et seq.' Engineer to prepare plans and schedules of lots benefited by construction of sidewalks, Sec. 29-55; engineer to submit a written report prior to the conditional acceptance of streets, Sec. 30-127.

- (b) Construction of public structures. To make quantity and cost estimates, inspect and approve the construction of public structures and perform other related engineering work for the city not specifically enumerated herein.
- (c) Record new streets. To record new streets as laid out in the City Street Book and establish lines and grades for building new streets and for re-grading old streets.
- (d) Erection of monuments. To superintend the erection of monuments at the intersection of streets and preserve and reset all street monuments disturbed or liable to be disturbed in grading or building streets.
- (e) Maintain records. To maintain and safely keep records, instruments, plans, profiles, records of surveys and all other property and papers relating to engineering work of every description belonging to the city, and shall deliver the same to his successor in office.
- (f) Provide services for other departments. To perform engineering services for the public works department and for such other departments of the city as may from time to time require such service.
- (g) Reports to mayor and council. The city engineer shall make periodic reports to the mayor and council as to the business of his office.
- (h) Perform other duties. To perform such other duties as may be prescribed by the mayor or any applicable state or local laws or ordinances. (Ord. of 9-14-64)

Secs. 2-108 – 2-118. Reserved.

DIVISION 7. CITY PHYSICIAN

Sec. 2-119. Duties generally.

It shall be the duty of the city physician to attend in a professional capacity, all indigent persons when called upon to do so by the overseers of the poor, and the physician being once called shall attend such patient as long as the case may require. (1942 Rev. Code, Ch. XXXVIII, Sec. 2)

Cross reference – City physician to conduct physical examinations of applicants for the school patrol, Sec. 25-19 et seq.

Sec. 2-120 – 2-125. Reserved.

DIVISION 8. CITY SOLICITOR

Sec. 2-126. To be an attorney.

The city solicitor shall be an attorney-at-law. (1942 Rev. Code, Ch. VII, Sec. 1)

State law reference – Municipal authority to appoint attorneys, 30 M.R.S.A. Sec. 1902.

Sec. 2-127. Duties generally.

- (a) It shall be the duty of the city solicitor to draft all deeds and other instruments which may be required of him by the mayor or council and which are to be drawn at the expense of the city.
- (b) He shall furnish his opinion on any legal subject relating to city affairs and render professional advice to officers of the city on any matter relating to their duties.
- (c) It shall be his duty to commence and prosecute all suits at law on behalf of the city and defend all suits at law brought against the city. (1942 Rev. Code, Ch. VII, Sec. 2)

Cross reference – City solicitor authorized to institute actions against zoning ordinance violators, Part III, Sec. 4B.

Secs. 2-128 – 2-135. Reserved.

DIVISION 9. CODE ENFORCEMENT OFFICER

Sec. 2-136. Appointment.

The code enforcement officer shall be appointed by the mayor, subject to the approval of a three-fourths (3/4) vote of all the members of the council by a roll call vote. (Ord. of 2-21-77)

Sec. 2-137. Duties.

The code enforcement officer shall perform all the duties and functions of the building inspector, health inspector, housing inspector and license inspector as provided for by this Code and by state laws. (Ord. of 2-21-77)

Cross references – Building inspector, Sec. 6-3 et seq.; health inspector in regard to restaurants, Sec. 14-31; housing inspector, Sec. 17-21 et seq.; regulation of licenses, Sec. 20-1.

Sec. 2-138 – 2-145. Reserved.

DIVISION 10. DIRECTOR OF PUBLIC WORKS⁵

Sec. 2-146. Appointment.

The director of public works shall be appointed by the mayor, subject to the approval of a three-fourths (3/4) vote of all the members of the council by a roll-call vote. (Ord. of 4-06-70)

⁵ **Cross references** – Director to regulate backfilling, Sec. 29-81; director's general responsibility to install traffic-control devices, Sec. 31-25; director to mark traffic lanes, Sec. 31-42; director to place one-way streets and alley signs, Sec. 31-45; director to place signs at through streets, Sec. 31-48; director to place turn markers at intersections, Sec. 31-55; director to place restricted turn signs at intersections, Sec. 31-56; director to mark streets for angle parking, Sec. 31-86; director to erect signs prohibiting parking adjacent to schools, Sec. 31-95; director to erect signs prohibiting parking on narrow streets, Sec. 31-96; director to erect no parking signs on left side of one-way streets, Sec. 31-97; director to erect signs stating appropriate parking time limits, Sec. 31-106.

Charter references – Mayor’s appointive powers, Sec. 24; appointments generally, Sec. 30.

Sec. 2-147. Duties generally.

The director of public works, acting under the instructions and supervision of the mayor, shall:

- (1) Plan, direct, supervise and manage all the functions of the city’s public works department and its various divisions, including the sewer, sanitation and waste disposal divisions, and all its personnel shall be responsible to him in the performance of the respective duties of their employment as employees of the public works department.
- (2) Supervise the maintenance of all the vehicles, equipment and property of the public works department and its various divisions.
- (3) Supervise the maintenance of all the operating records of the department, which shall be safely kept as the property of the city.
- (4) Act as road commissioner and perform all his duties as required by state law and the city ordinances, upon being so appointed by the mayor.
- (5) Perform such other duties relative to the operation and supervision of the public works department, and its various divisions, as the mayor or the council may from time to time prescribe.
- (6) Prepare and present to the mayor at his request periodic reports of the activities of the department, and assist in the preparation of a proposed annual budget for the operation of the department. (Ord. of 4-06-70)

Sec. 2-148. Removal.

Any appointee to the office of director of public works may be removed from office by the mayor, by a written order, for any cause which he shall in his official discretion deem sufficient, which cause he shall assign in his order of removal in accordance with the provisions of section 24 of the Charter. (Ord. of 4-06-70)

Secs. 2-149 – 2-156. Reserved.

DIVISION 11. DIRECTOR OF FINANCE⁶

Sec. 2-157. Appointment; terms; removal.

⁶ **Editor’s note** – An ordinance approved April 3, 1978, directed that Divisions 11 and 12 hereof be omitted from the Code, and a new Div. 11 be added, as herein set forth. Prior to amendment, former Div. 11, Secs. 2-156 – 2-163 contained provisions relative to the office of tax collector, derived from the 1942 Rev. Code, Ch. IV, Secs. 1 and 2, and former Div. 12, Secs. 2-171 – 2-175 contained provisions pertaining to the office of treasurer, derived from the 1942 Rev. Code, Ch. V, Sec. 1-5.

Charter reference – Appointment of city treasurer, tax collector, subpart A, Sec. 30.

State law references – Powers and duties of town treasurers, 30 M.S.R.A. Secs. 5001 – 5003; powers and duties of tax collectors, 36 M.S.R.A. Secs. 751 – 766.

The director of finance shall be appointed by the mayor, with approval by a two-thirds (2/3) vote of all the members of the city council, for an initial term of one (1) year and thereafter for successive one-year terms by the mayor without council approval. He or she may be removed for good and sufficient cause on complaint of the mayor, sustained by a two-thirds (2/3) vote of all the members of the city council. (Ord. of 4-03-78)

Sec. 2-158. Qualifications generally.

The director of finance shall possess a thorough knowledge of the principals and practices of governmental accounting, budgeting and treasury management and by education and/or experience be capable of performing in a competent and businesslike manner all of the functions of this position. (Ord. of 4-03-78)

Sec. 2-159. Powers and duties.

The director of finance shall have and possess all of the powers and duties conferred or imposed by state law and local ordinance upon treasurers and collectors of taxes including, but not by way of limitation, the following:

- (a) **Taxes, fees, allotments from other governments.** Collect all taxes, special assessments, license fees and other revenues of the city or for whose collection the city is responsible and receive all money receivable by the city from the state or federal government, or from any court, or from any office, department or agency of the city;
- (b) **Tax records.** The director of finance shall keep a set of books wherein a debit and credit account shall be kept with each and every taxpayer, the amount assessed against each by the assessors including the tax upon real estate, personal property, also sewer assessments and all unpaid taxes now held by former collectors against such taxpayer, and all other accounts which may properly be charged against such person or property by the city, also the interest due on such unpaid account, as the council may from time to time direct and such charges for notices for nonpayment or expenses for collection as the council may hereafter determine.
Each taxpayer shall also be credited with all payments made and all abatements allowed by proper authority, and the book containing such account shall be accessible to the taxpayers of the city during office hours.
A statement of an account established in accordance with the above, when approved by the auditor, shall form the basis of a claim against any taxpayer on which he may be sued or on which collection may be enforced by any legal means open for the collection of debts.
- (c) **Rents, deeds, leases; fines and penalties for same.** It shall be the duty of the director of finance to collect and receive all rents due the city, and under the direction of the mayor, to seal and execute all deeds and leases of city land and buildings.
He or she shall receive all fines and penalties accruing to the city and account for the same.
He or she shall proceed without delay to collect all accounts delivered to him or her for collection and in any case where he or she is unable to get a prompt settlement, he

or she shall report the same to the council and shall then take such further action as they may prescribe.

- (d) **Appropriation records.** The director of finance shall keep, in a neat and methodical manner, a complete set of books, entering therein, among the other entries, the various appropriations made by the council, each under its appropriate head, and charge to each the expenditures and payments that from time to time are made therefrom.
- (e) **Settlement of accounts.** The director of finance shall pay all bills and settle all accounts against the city when properly presented to him or her by the auditor of accounts. No other person shall disburse any money on behalf of the city unless under his or her direction and control.
- (f) **Notes, bonds, etc.** The director of finance shall, under the direction of the committee on finance, prepare and issue all notes, bonds and evidences of indebtedness that may from time to time be authorized by the council, and he or she is hereby authorized to procure all books and forms that may be necessary to carry this division into effect and account for the same.
- (g) **Custody of funds, investments, etc.** The director of finance shall have custody of all public funds belonging to or under the control of the city, or any office, department or agency of the city government, and deposit all funds coming into his or her hands in such depositories as may be designated by resolution of the council, or, if no such resolution be adopted, as may be designated by the mayor, subject to the requirements of law as to surety and the payment of interest on deposits. All such interest shall be the property of the account, and he or she shall have custody of all investments and invested funds of the city government, or in possession of such government in a fiduciary capacity, and have the safe-keeping of all bonds and notes of the city and the receipt and delivery of city bonds and notes for transfer, registration or exchange;
- (h) **Statements and reports.** Submit to the council through the accounts and claims committee a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city;
Prepare for the mayor, as of the end of each fiscal year, a complete financial statement and report. (Ord. of 4-03-78)

State law references – Powers and duties of town treasurers, 30 M.S.R.A. Secs. 5001 – 5003; powers and duties of tax collectors, 36 M.S.R.A. Secs. 751 – 766.

Sec. 2-160. Bond required.

The director of finance shall give bond with sufficient sureties to the satisfaction of the council for the faithful performance of the duties of his or her office and that he or she will truly account for and pay over all monies that may come into his or her hands, and all other papers, vouchers and other property belonging to the city. (Ord. of 4-03-78)

Sec. 2-161 – 2-185. Reserved.

**ARTICLE IV. FINANCE
DIVISION 1. GENERALLY**

Sec. 2-186. Committee on accounts to direct auditor's bookkeeping.

It shall be the duty of the committee on accounts to direct the manner in which the auditor shall keep the books, records and papers of his department. (1942 Rev. Code, Ch. XII, Sec. 1)

Sec. 2-187. Committee to examine, pass on bills.

The committee on accounts shall meet monthly and carefully examine and pass upon all bills certified to them by the auditor, and shall approve all bills found to be correct and incurred by authority of the council. (1942 Rev. Code, Ch. XII, Sec. 1)

Sec. 2-188. Committee to audit treasurer's, auditor's accounts.

At the close of each financial year, it shall be the duty of the committee on accounts to audit the accounts of the treasurer and auditor, and as often as they may deem for the interest of the city; and for this purpose, they shall have access to all books, bills, papers and records that may be in the possession of the subordinate city officer, and they shall in every case report the results of their examination to the mayor. (1942 Rev. Code, Ch. XII, Sec. 2)

Sec. 2-189. Committee on finance to handle loans.

The committee on finance, under the direction of the council, shall negotiate all loans made on account of the city, and shall consider and report on all matters relating to the finances of the city. (1942 Rev. Code, Ch. XII, Sec. 3)

Sec. 2-190., 2-191 and 2-192. Deleted.

(Ord. of 11-06-1989)

Sec. 2-193. Finance committee to ascertain city's debt, secure funds to pay.

It shall be the duty of the finance committee each year to ascertain how much money may be needed to pay the final bills of the city which have been incurred during the year, and to see that the treasurer is provided with funds by loans or collections for the payment of these bills, and also to recommend to the council appropriations sufficient to cover all bills incurred. (1942 Rev. Code, Ch. XXII, Sec. 2)

Sec. 2-194. Departments to present bills to auditor.

All heads of departments charged with the expenditure of money on behalf of the city shall see that all bills incurred by them in their several departments are presented to the auditor on or before the twenty-fifth of the month in which such bills have been contracted, or on or before such day of the month as may be required by the auditor. (1942 Rev. Code, Ch. XIII, Sec. 7)

Sec. 2-195. Procedure for payments from treasure.

No money shall be paid out of the treasury until the account has been examined by the auditor, approved by the committee on accounts and drawn for by the mayor. (1942 Rev. Code, Ch. XIII, Sec. 9)

Sec. 2-196. Paying of city employees; receipts to be proper vouchers.

All persons in the employment of the city whose names are carried on a payroll shall be paid weekly or bimonthly and their receipts on such payroll shall be proper vouchers for the auditor and committee on accounts. (1942 Rev. Code, Ch. XIII, Sec. 8)

Sec. 2-197. Transfer of funds for other purposes department.

No unexpended balance in an appropriation made for any purpose or for any department, or for a particular purpose of one (1) department, can be transferred to any other purpose or to any other department or to any other purpose of the same department except by authority of the council, and the city clerk shall promptly notify the auditor and treasurer of any such transfer. (1942 Rev. Code, Ch. XIII, Sec. 6)

Sec. 2-198. Additional appropriation for labor if exceeding estimates, costs.

When the proposal or estimate for the performance of any proposed labor exceeds the appropriation made therefor, or when the sum appropriated has been expended, the mayor shall report the same to the council, and no new work shall be undertaken and no further expenditure shall be made upon the work already commenced until an additional appropriation is made by the council for that purpose. (1942 Rev. Code, Ch. XIII, Sec. 5)

Sec. 2-199. Committee on accounts to publish financial report; public to be notified.

- (a) The committee on accounts is hereby instructed to publish the financial report required by section 2-86 of this chapter in connection with the other reports of the city. Which may be ordered printed by the council before the expiration of its term of service, also the report of the school committee and such other matter as they may deem of public interest to the city, and to order printed for public distribution so many copies as they may deem best, and the cost of such reports shall be paid by the incoming city government in the same manner as all other bills incurred for the legitimate expense of the city.
- (b) Public notice of the completion and publication of such report shall be made by the committee on accounts in such manner as they may deem best. The notice shall state

when such reports may be obtained by the citizens in order that such reports may be obtainable by all parties interested. (1942 Rev. Code, Ch. XXII, Sec. 1)

Sec. 2-200. Loans for a year or more; clerk's duty.

When a loan is authorized by the council for a term of one (1) year or more, such loan shall be considered a part of the permanent debt of the city and the notes or bonds issued therefor shall be signed by the treasurer, the president of the council, who shall be ex officio, a member of the committee of finance and by the mayor of the city; and also by the city clerk in attestation of the vote of the council by which such loan is authorized, and it shall be the duty of the city clerk to see that no more notes or bonds are issued than were authorized by vote or order of the council. (1942 Rev. Code, Ch. XVIII, Sec. 1)

Sec. 2-201. Loans for less than a year; clerk's duty.

When a loan is authorized for less than one year and is to be paid out of the money collected from the tax assessed during that year or from the collections of the tax of previous years, the same shall be considered a part of the temporary load, and the notes issued therefor shall be signed only by the treasurer and attested by the city clerk, who shall, as in the former case, see that no more is borrowed than is authorized by the vote or order of the council. (1942 Rev. Code, Ch. XVIII, Sec. 2)

Sec. 2-202. Orders for borrowing to have readings.

Orders for the borrowing of money for the use of the city, whether for a temporary or permanent loan, shall have two (2) separate readings with an interval of not less than three (3) days between such readings, in the same manner as now provided in the manner of appropriations, before being finally passed. (1942 Rev. Code, Ch. XVIII, Sec. 3)

Sec. 2-303. Manual or facsimile signatures on securities.

Securities by the city for temporary or permanent loans shall be executed in the name of the city by the manual or facsimile signatures of the officials as required in section 2-200 or section 2-201, but at least one signature on each such bond or note shall be a manual signature. Coupons, if any, attached to such securities, shall be executed with the facsimile signature of the treasurer. (Ord. of 7-09-73)

DIVISION 2. PURCHASING PROCEDURE

Sec. 2-204. Competitive bidding required.

Except as otherwise provided herein, all purchases of supplies, contractual services, capital equipment and construction contracts shall be purchased by formal written contract based on competitive bids. (Ord. of 7-07-75, Ord. of 11-06-89, Ord. of 5-4-98)

Sec. 2-205. When competitive bidding is not required.

- (a) **Authority of the Mayor.** The Mayor may direct the solicitation of proposals under the Open Market Procedure for purchases of less than Five Thousand Dollars (\$5,000.00).
- (b) **Waiver by the City Council.** The City Council may waive the formal bidding procedure and authorize the solicitation of proposals under the Open Market Procedure for purchases of less than Ten Thousand Dollars (\$10,000.00) and for purchases of goods on contractual services where the Council determines that there are a small number of qualified bidders.
- (c) **Bidding not required.** (1) Bidding shall not be required for professional services contracts which may be awarded based on requests for proposals, negotiated contracts and consideration of the profession's qualifications, experience and reputation of the contractor. (2) Bidding shall not be required where the City Council determines that the goods or services required are only available from a single source.
- (d) **Renewal of service contracts.** The City Council without seeking competitive bids may authorize

Sec. 2-206. Formal bidding procedure.

Formal competitive bidding shall conform to the following:

- (1) **Notice inviting bids.** Notice inviting bids shall be published once in a Greater Portland newspaper and at least five (5) days preceding the last day set for the receipt of the bids.
- (2) **Bid deposits.** When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to return of surety where the purchasing agent has required such. A successful bidder shall forfeit any surety required by the purchasing agent upon failure on his part to enter a contract within ten (10) days after the award.
- (3) **Bid opening procedure.**
 - (a) **Sealed.** Bids shall be submitted sealed to the purchasing agent and shall be identified as bids on the envelope.
 - (b) **Opening.** Bids shall be opened in public at the time and place stated in the public notices by the purchasing agent or his designated representative.
 - (c) **Tabulation.** A tabulation of all bids received shall be available for public inspection.
 - (d) **Integrity of opening procedure.** A member of the Council, the City Clerk, or the Mayor and the applicable Department Head (or the City Treasurer), shall be present at the bid opening to insure and attest to the integrity of the bid opening procedure.
- (4) **Rejection of bids.** The Mayor shall have the authority to reject any or all bids, or parts of bids, when the public interest would be served thereby, if the lowest bid or part of a bid is under One Thousand Dollars (\$1,000.00). When the lowest bid or part of a bid to be rejected exceeds One Thousand Dollars (\$1,000.00), the City Council shall have the authority of rejection.
- (5) **Award of contracts.**

- (a) **Authority of the Mayor.** The Mayor shall have the authority to award contracts under Five Thousand Dollars (\$5,000.00), and when the amount totals or exceeds Five Thousand Dollars (\$5,000.00), only with prior City Council authorization of said contract.
- (b) **Lowest responsible bidder.** Contracts shall be awarded to the lowest responsible bidder. In determining “lowest responsible bidder”, in addition to price, the Mayor (when the amount is under Five Thousand Dollars (\$5,000.00)), or the Council (when the amount totals or exceeds Five Thousand Dollars (\$5,000.00)), shall consider:
 - 1. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
 - 2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay of interference;
 - 3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
 - 4. The quality of performance of previous contracts or services;
 - 5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
 - 6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
 - 7. The quality, availability and adaptability of the supplies, or contractual services to the particular use required;
 - 8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 - 9. The number and scope of conditions attached to the bid.
- (c) **Similar or Tie bids.**
 - 1. **Local vendor preference.** Notwithstanding the provision of Subsection (5)(b), it is the policy of the City of Westbrook, when making purchases or entering contracts, to give some preference to local vendors and service providers, if the price differential between the local and other suppliers is small. This policy encourages a strong and diverse economy within the City; and it further supports local businesses and individuals, which not only pay taxes, but also spend their incomes locally, and support other community institutions.
 - 2. If the bid received from a Westbrook business establishment is in the same amount as, or is within two percent (2%) of a low bid submitted by a business located outside the City, then the purchase/contract may be awarded to the Westbrook business, quality and service being equal.
 - 3. **Drawing of lots.** Where Subsection (5)(d)(2) is not applicable, or where two local vendors have tied for lowest bid, the purchasing agent shall resolve the impasse by drawing lots in public.
- (d) **Statement of Reasons.** When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the Mayor or the Council and filed with the other papers relating to the transaction.

- (e) **Performance bonds.** The purchasing agent shall have the authority to require a performance bond, before entering a contract, in such amount as he shall find reasonably necessary to protect the best interests of the city.
- (6) **Prohibition against subdivision.** No contract or purchase shall be subdivided to avoid the requirements of this section.
- (7) **Right to reject bids, negotiate terms.** Notwithstanding any other provision of this ordinance, or any term, or lack thereof, in any bid document or request for proposal, the City of Westbrook expressly reserves the right to reject any and all bids and proposals; to award a bid or contract to other than the lowest bidder; to readvertise for new bids; and to negotiate for more advantageous terms with any vendor or service provider, as deemed in the best interest of the City. (Ord. of 7-07-75, Ord. of 11-06-1989, Ord. of 5-4-1998)

Sec. 2-207. Open market procedure.

Purchases of supplies, contractual services, capital equipment and construction contracts authorized by this chapter to be purchased through the Open Market Procedure shall be purchased in conformance with following procedure:

- (1) **Minimum number of bids.** All open market purchases shall, wherever possible, be based on at least three (3) proposals, and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in subsection (5)(b) of section 2-206 above.
- (2) **Notice inviting bids.** The purchasing agent shall solicit bids by direct mail request to prospective vendors, or by telephone. Every reasonable effort will be made to solicit bids from Westbrook business establishments. (Ord. of 12-16-91)
- (3) **Award.** The mayor shall have the authority to award all open market purchases under One Thousand Dollars (\$1,000.00)
- (4) **Recording.** The purchasing agent shall keep a record of all open market orders and bids submitted in competition thereon, and such records shall be available for public inspection. (Ord. of 7-07-75, Ord. of 11-06-1989)

Sec. 2-208. Emergency purchases.

- (a) **By purchasing agent.** In case of an apparent emergency which requires immediate purchase of supplies, contractual service or capital equipment, the mayor shall be empowered to authorize the purchasing agent to secure by open market procedure as herein set forth, at the lowest obtainable price, any supplies, contractual services, or capital equipment regardless of the amount of the expenditure.
 - (1) **Recorded explanation.** A full report of the circumstances of an emergency purchase shall be filed by the purchasing agent with the city council and shall be open to public inspection.
 - (2) **Council confirmation.** The city council shall confirm the expenditure after the fact if such expenditure would normally have required prior council approval.
- (b) **By head of departments.** In case of actual emergency, and with the approval of the mayor, the head of any department may purchase directly any supplies or contractual

services whose immediate procurement is essential to prevent delays in the work of the department which may vitally affect the life, health or convenience of citizens.

- (1) **Recorded explanation.** The head of such department shall send to the purchasing agent a full written report of the circumstances of the emergency. The report shall be filed with the council as provided in subsections (a)(1) and (2) above. (Ord. of 7-07-75; Ord. of 11-06-89)

Sec. 2-209. Inspection and testing.

- (a) The purchasing agent shall inspect, or supervise the inspection of, all deliveries or supplies, contractual services, and capital equipment to determine their conformance with the specifications set forth in the order or contract.
 - (1) **Inspection by department.** The purchasing agent shall have the authority to authorize having the staff and facilities for adequate inspection to inspect all deliveries made to such using agencies under the rules and regulations which the purchasing agent may prescribe.
 - (2) **Tests.** The purchasing agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such test, the purchasing agent shall have the authority to make use of laboratory facilities of any agency of the city government or of any outside laboratory. (Ord. of 7-07-75; 11-06-89)
- (b) The purchasing agent may require that any contract awarded for any public improvement provide for the withholding of up to 10% of the money due the contractor until the project under contract has been accepted by the City. When such retainage has been withheld by the City, it shall not be withdrawn until the purchasing agent has reported the results of any final inspection and testing to the City Council, which shall have sole authority to release such sums. (Ord. of 2-02-93)

Sec. 2-210. Cooperative purchasing.

The purchasing agent shall have the authority to join with the other units of government in cooperative purchasing when the best interests of the city would be served thereby, subject to the intent and standards as set forth in sections 2-203 through 2-207. (Ord. of 7-07-75)

Secs. 2-211 – 2-213. Reserved.

ARTICLE V. POLICE AND FIRE DEPARTMENT PERSONNEL⁷

Sec. 2-214. Employees to comply with article.

It shall be the duty of all persons in the public safety service of the city to comply with rules contained in this article and aid in their enforcement. (Ord. of 12-06-82)

Sec. 2-215. Public safety commission established.

A public safety commission of the city is hereby established. (Ord. of 12-06-82)

Sec. 2-216. Membership, appointment, compensation of commission.

- (a) The public safety commission shall consist of one member from each ward, not to exceed five (5) members who shall be qualified voters of the city. (Ord. of 9-09-96)
- (b) On the first day of January, 1964, the mayor appointed members of the commission using the following procedure; for the first terms, he shall appoint one to serve one year (1), one to serve two (2) years, one to serve three (3) years, one to serve four (4) years and one to serve five (5) years. Thereafter, all appointments shall be for a term of five (5) years, and the terms of office shall expire on the first day of January. (Ord. of 12-06-82, Ord. of 9-09-96)
- (c) The members of the commission shall be compensated as approved by the city council. (Ord. of 9-09-96)

Sec. 2-217. Vacancies in public safety commission.

- (a) In the event of resignation by of any member of the public safety commission, his/her appointment to the commission shall cease and there shall be created a vacancy.
- (b) All vacancies shall be filled for the unexpired term by the Mayor within 60 days. (Ord. of 12-06-82, Ord. of 9-09-96)

Sec. 2-218. Commissioners to take oath.

Before entering upon their duties, commissioners of the public safety commission shall take the oath of office before the city clerk or other duly qualified official. (Ord. of 12-06-82)

Sec. 2-219. Commission to choose chairman; term.

⁷ **Editor's note** – An ordinance of Dec. 6, 1982, amended Ch. 2, Art. V, to read as set out in Secs. 2-214 – 2-233. Formerly, Art. V, pertaining to similar subject matter, had consisted of Secs. 2-214 – 2-243, derived from Secs. 1-7 of an ordinance of March 18, 1963, as amended by ordinances of May 3, 1965, May 1, 1972, and April 22, 1975. For complete legislative history, see the Code Comparative Table.

The public safety commission shall elect by majority vote one of its members to serve as chairman, who shall hold office for a period of one (1) year.

Sec. 2-220. Public safety commission to administer article, recommend changes.

- (a) The public safety commission shall administer the rules contained in this article for the examination, probationary and permanent appointment, eligibility, promotion and grievances (suspension, reinstatement or removal) procedures for members of the police, fire/rescue departments of the city.
- (b) The commission shall, where deemed necessary, submit changes, additions or deletions to such rules to the city council which by ordinance amendment may authorize incorporation of such changes, additions or deletions in the duties and powers of the commission. (Ord. of 12-06-82, Ord. of 9-9-96)

Sec. 2-221. Commission to suggest standards of efficiency, make recommendations for coordinating operation of departments.

The public safety commission shall suggest standards of efficiency and advise measures for coordinating the operation of the various departments of the city for increasing the operation of the various departments of the city for increasing individual, group and departmental efficiency and for the welfare of the city.

Sec. 2-222. Commission to keep eligible lists; and duration of validity; available to public.

- (a) On employment examinations, the public safety commission shall grade the applicants and shall make and keep separate eligible lists for each department, upon which shall be entered the names of successful candidates in the order of their standing in examination.
- (b) Eligible lists shall remain in force not longer than one (1) year for the police department and two (2) years for fire department. (Ord. 9-09-96)
- (c) Each list of eligible, in alphabetical order, shall be open to public inspection. (Ord. 12-06-82, Ord. 9-09-96)

Sec. 2-223. Commission to review personnel qualified for promotion, report findings.

- (a) The public safety commission shall interview, examine, and evaluate personnel deemed qualified for promotion by virtue of experience and performance and report its findings to the mayor. (Ord. of 12-06-82)
- (b) The commission shall submit three (3) names for one vacancy, four (4) names for two (2) vacancies, five (5) names for three (3) vacancies, six (6) names for four (4) vacancies, and seven (7) names for five (5) vacancies. (Ord. of 9-09-96)

Sec. 2-224. Public safety commission to maintain records of proceedings, actions re: applicants.

The public safety commission shall keep records of its proceedings and of the markings and grading on examinations, all recommendations or certificates of the qualifications of the applicants for office or employment and all information relating to grievance matters handled by the commission. (Ord. of 9-09-96)

Sec. 2-225. Regular, special meetings of public safety commission; quorum; action on matters without notice.

- (a) The public safety commission shall at its January meeting, or as soon thereafter as possible, establish by vote a time and place for its regular monthly meeting and may meet more frequently as necessitated by commission business. Special meetings will be called by the chairman upon a request from a majority of the members of the commission.
- (b) Three (3) members shall constitute a quorum.
- (c) Any matters that may properly come before the commission may be acted upon without further notice. (Ord. of 12-06-82, Ord. of 9-9-96)

Sec. 2-226. City to pay operational expenses of commission.

All expenses incident to the operation of the public safety commission shall be paid by the city after prior approval by the council and be chargeable to the department for which the expenses may have been incurred. (Ord. of 12-06-82, Ord. of 9-09-96)

Sec. 2-227. City attorney to act as commission attorney upon request.

The city attorney shall act as attorney for the public safety commission if requested to do so by the commission. (Ord. of 12-06-82)

Sec. 2-228. Requirements of applicant.

Police Officers:

Applications shall be made on standard forms provided by the public safety commission, with information relevant to the applicant's qualifications, including but no limited to:

- 1. Must possess a valid driver's license with no disqualifying convictions.
- 2. Proof of passage of the "alert test" administered by the maine Criminal Justice Academy.
- 3. A high school diploma or equivalency certificate.

Fire Fighters:

Applications shall be made on standard forms provided by the public safety commission, with information relevant to the applicant's qualification, including but not limited to:

- 1. Must possess a valid driver's license with no disqualifying convictions.
- 2. A high school diploma or equivalency certificate.

3. Must possess an EMT license within one (1) year of employment.

Fire Fighter/Paramedic:

Applications shall be made on standard forms provided by the public safety commission, with information relevant to the applicant's qualification, including but no limited to:

1. Must possess a valid driver's license with no disqualifying convictions.
2. A high school diploma or equivalency certificate.
3. Completion of an applicable course (i.e., EMT/Paramedic) and is eligible for state license or holding a valid state license.

Public Safety Dispatcher

1. A valid driver's license with no disqualifying convictions, is desirable
2. A high school diploma or equivalency certificate.
3. Must possess a certified EMD license within one (1) year of employment.

(Ord. of 12-06-82, Ord. 9-09-96)

Sec. 2-229. Burden of proof of good character.

The burden of proof of good character shall in all cases be upon the applicant applying for the appointment of firefighter, firefighter/paramedic, police officer, public safety dispatcher who may be required to furnish evidence in addition to the certificate required in his application. (Ord. of 12-06-82, Ord. 9-9-96)

Sec. 2-230. Grievance procedure.⁸

- (a) Any employee of the police, fire/rescue departments who feels he/she has been aggrieved by any disciplinary action, may appeal in writing to the public safety commission for a hearing on such grievance within ten (10) days of the receipt of written notice of the action.
- (b) Any employee filing a grievance with the commission shall state the specific nature of the grievance, and may either represent himself herself or be represented by counsel in any subsequent hearing.
- (c) The commission shall hold a hearing on such grievance within ten (10) days from the time the written appeal is filed. However, the commission may, if it deems necessary, postpone the hearing for an additional ten (10) days. A public hearing may be held if both parties agree.
- (d) The commission shall issue a written report containing a copy of the appeal, findings of facts, and the determination by the commission to the mayor after each hearing. The commission shall have the power to reinstate the employee to his/her former position or status, with the return of any lost pay, and/or benefits if it is determined that the charges upon which the disciplinary action was taken were based on insufficient evidence or without just cause.
- (e) If it is determined that the disciplinary action is inconsistent with the offense, the commission may modify the disciplinary action.
- (f) The commission may make its own rules for the conduct of hearings before it.

⁸ **Editor's note** – An ordinance of September 9, 1998 amended this Section by replacing the former language and adding it to Section 2-223 (b).

(g) The commission shall have the power to subpoena witnesses and administer oaths.

Sec. 2-231 – 2-233. Deleted by Ord. 9-9-96.

Sec. 2-234 – 2-264. Reserved.

ARTICLE VI. PLANNING BOARD⁹

Sec. 2-265. Created; composition; qualification of members.

Pursuant to Title 30, Section 1917, of the Maine Revised Statutes, there is hereby created a planning board, which shall consist of seven (7) members who must be residents and registered voters of the City of Westbrook.

Sec. 2-266. Appointment and tenure of members; municipal officers ineligible.

The seven (7) members of the planning board shall be appointed by the mayor, subject to the approval of the city council, one (1) from each of the city's five (5) wards, and two (2) from the city at large. The initial members from the city's five (5) wards shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years, and the initial members from the city at large shall be appointed for terms of three (3) and five (5) years. Thereafter, all subsequent appointments, except to fill vacancies, shall be for a term of five (5) years and until a successor is appointed. A municipal officer shall not be a member of the board.

(Ord. of 12-03-73)

Sec. 2-267. Compensation.

The city council shall establish a rate of compensation for the chairman and the members of the planning board under the city salary ordinance based on attendance at meetings. No member shall receive compensation unless the approved minutes of that meeting shall indicate his presence. (Ord. of 12-03-73)

Sec. 2-268. Vacancy.

A vacancy shall occur upon the resignation or death of any member of the planning board, or when a member ceases to be a resident of his respective ward for ward members, or a resident of the city for members at large, or when a member fails to attend four (4) consecutive regular and special meetings, or who fails to attend at least seventy-five per cent (75%) of all meetings during the preceding twelve (12) months period. When a vacancy occurs, the chairman of the board shall immediately so advise the mayor and chairman of the board shall immediately so advise the mayor and council in writing. The board may recommend to the mayor and council that the attendance provision be

⁹ **Editor's note** – Ord. of Dec. 3, 1973, amended this Code by adding Ch. 16A, Secs. 16A-1 – 16A-13, which provisions were redesignated as Art. VI, Secs. 2-265 – 2-277, by the editors for classification purposes.

waived for cause, in which case no vacancy will then exist until the council disapproves the recommendation. (Ord. of 12-03-73)

Sec. 2-269. Removal.

Any member of the planning board may be removed for good and sufficient cause, on complaint of the mayor sustained by a two-thirds (2/3) vote of the city council. (Ord. of 12-03-73)

Sec. 2-270. Election of officers.

Upon the appointment of the members to the planning board, they shall meet and elect a chairman and a vice-chairman and such other officers as they may deem advisable to serve for a period of one (1) year and until a successor is elected, and they may succeed themselves in office if so elected. (Ord. Of 12-03-73)

Sec. 2-271. Meetings; records; quorum.

The planning board shall hold regular meetings and shall designate the time and place thereof, and shall keep a record of all its proceedings. Special meetings may be held upon the call of the chairman or in his absence the vice-chairman, and at such other times as the board may determine, provided at least twenty-four (24) hours notice of the meeting be given to each member. All records shall be deemed public after acceptance by the board and may be inspected at reasonable times. Four (4) members of the board shall constitute a quorum. (Ord. of 12-03-73)

Sec. 2-272. Conflict of interest.

No member of the planning board shall vote on any matter in which he has a conflict of interest. All questions of a conflict of interest as to any member must be raised prior to voting. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the board, however, at least three (3) affirmative votes shall be required. The member being challenged shall have no vote. (Ord. of 12-03-73)

Sec. 2-273. Rules and regulations; schedule of filing fees.

The planning board shall adopt rules and regulations for the transaction of its business, and may establish a schedule of filing fees relative to matters presented to the board by the public to cover the administrative costs of public hearings, all of which shall be subject to council approval. (Ord. of 12-03-73)

Sec. 2-274. General powers and duties.

The planning board shall:

- (a) Prepare a comprehensive plan for the development of the community as defined by Title 30, M.S.R.A. Section 4961. In the preparation of a comprehensive plan, the public shall be encouraged to participate. The plan must be given a public hearing prior to its being adopted by the planning board.
- (b) Exercise such powers and perform such duties and functions as are authorized and provided for under the city's Code of Ordinances and the laws of the State of Maine pertaining to zoning, subdivisions, and land development throughout the community.
- (c) Subject to the approval of the city council, make and enter into such contracts as it may deem advisable to carry out the objectives and purposes of the board, and shall have such other powers and perform such other duties as may be necessary for the administration of its affairs on behalf of the city, and may obtain goods and services necessary for its proper function as approved by the city council within the limits of its budget or as otherwise supplemented by the city council. (Ord. of 12-03-73)

Sec. 2-275. Voting generally.

- (a) In matters of a general nature on which a vote is taken by the planning board, a majority of those present, and constituting a quorum, shall be sufficient. However, in any and all matters pertaining to changes in the comprehensive plan, or the official map, or approval of definitive plans or conditional uses, or recommendations on the disposition of city property, or any recommendations on capital improvement programs or any action involving appropriations and expenditures of any monies or recommendations to the board of appeals, an affirmative vote of a majority of all the members of the board (four (4) votes) shall be necessary for its passage.
- (b) Any and all matters pertaining to changes in zoning or proposed amendments to the zoning or subdivision ordinances, an affirmative vote of a majority of all the members of the board (four (4) votes) shall be necessary for its passage. (Ord. of 12-03-73; Ord. of 9-22-86, Sec. 1)

Sec. 2-276. Interrelation of city council and board.

The planning board shall be an advisory body to the city council, and the existing city zoning and subdivision ordinances shall not be revised or amended until the board has made a careful investigation of all proposed revisions or amendments in conjunction with the city's comprehensive plan. When the council directs the planning board in writing to study and report back on proposed revisions or amendments to ordinances, the board shall make its official report to the city council within sixty (60) days unless a longer period of time has been granted by the council. The failure of the board to issue its report within the allotted time span shall be deemed to be a negative report. Any proposed revisions or amendments to the zoning or subdivision ordinances, which have been approved or disapproved by the board, may be enacted only by a majority (four (4) votes) of all the members of the council. The Chairman of the Planning Board will schedule any required public hearings. (Ord. of 12-03-73; Ord. of 10-28-96)

Sec. 2-277. Savings provisions.

The present planning board shall continue in existence and continue its functions until a new planning board is organized, and the city's present comprehensive plan is adopted, as herein provided for. (Ord. of 12-03-73)

Sec. 2-278 – 2-284. Reserved.

ARTICLE VII. ASSESSOR AND BOARD OF ASSESSMENT REVIEW

Sec. 2-285. Office of single assessor established.

There is hereby established a single assessor for the City of Westbrook who shall replace the board of assessors and whose powers and duties shall be the same as for the assessor for towns under Maine law. He or she shall be appointed by the mayor, with city council approval, for an initial term of one year and thereafter for successive one-year terms by the mayor without council approval. He or she may be removed for good and sufficient cause on complaint of the mayor, sustained by a two-thirds (2/3) vote of all the members of the city council. (Ord. of 2-06-78)

Sec. 2-286. Board of assessment review established.

There is hereby established a board of assessment review for the City of Westbrook whose powers and duties shall be established by state law. The board shall consist of seven (7) members, one (1) from each of the five (5) voting wards, and two (2) at-large, appointed by the city council and the initial appointments shall be as follows: Two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years and one (1) for a term of five (5) years. Thereafter, all subsequent appointments shall be for a term of five (5) years, except the filling of vacancies, which shall be for the remainder of the unexpired term. (Ord. of 2-06-78)

ARTICLE VIII. MUNICIPAL FISCAL YEAR¹⁰

Sec. 2-287. Established.

Commencing on July 1, 1982 the municipal fiscal year shall be from July first through June thirtieth for each year. (Ord. of 1-26-81)

Sec. 2-288. Payment of taxes; interest.

Section 2-288 Repealed, Ord. of 9-09-91

Sec. 2-289 – 2-299. Reserved.

¹⁰ **State law reference** – Authority of municipal officers re-establishment of fiscal year, 30 M.S.R.A. Sec. 5151.

ARTICLE IX. ETHICS AND CONFLICTS OF INTEREST

Sec. 2-300. Statement of Policy.

This ordinance recognizes that the proper operation of democratic government requires that public officials be independent, impartial and responsible to the citizens; that public office not be used for personal gain; and that the public have confidence in the integrity of its municipal government. The purpose and intent of this Article is to promote the objective of protecting the integrity of the government of the City of Westbrook against actual or reasonably perceived conflicts of interest, without creating unnecessary barriers to public service.

This ordinance also recognizes, with respect to municipal employment, that problems may arise when an employee works in proximity to his or her relative or a person to whom he or she is closely attached; or when the employee's relative is an elected official, because when such familial bonds exist, there inevitably is the reality or the appearance of improper influence or favor.

This Article shall not prevent the Mayor, the City Council, and municipal boards and commissions from adopting additional procedures and employment standards intended to prevent the exercise or appearance of improper influence or bias in the conduct of government business.

Sec. 2-301. Definitions.

As used in this Article, the following terms shall have the following meanings:

- A. **Financial involvement.** The term "financial involvement" means any existing, or current efforts toward achieving, ownership or investment interest, contract right, significant customer relationship, or employment relationship, or with a public official or a person with whom the public official has a personal relationship.
- B. **Municipal Board.** The term "municipal board" means the Westbrook City Council, Planning Board, Zoning Board of Appeals, Public Safety Commission, and Board of Assessment Review.
- C. **Participation in a matter.** The term "participation in a matter" means action by a public official to vote, decide, deliberate, influence or direct others in regard to matters currently before, or anticipated as coming before, a municipal board or which involve the operation of municipal government, including personnel administration.
- B. **Personal relationship.** The term "personal relationship" means any family, affectional, or social relationship that is characterized by one or more of the following:
 - 1. persons who are husband and wife, or parent and child
 - 2. persons who share a physical intimacy with each other
 - 3. persons who acknowledge an ongoing romantic relationship with each other
 - 4. persons who live together in the same residence

5. persons who intermingle their financial assets without an accounting of separate ownership interests
- C. **Public official.** The term “public official” means (1) any person holding an elected municipal office, (2) any person holding an appointed position on a municipal board, (3) the Administrative Assistant to the Mayor, and (4) the Department Heads and administrators of municipal departments.

Sec. 2-302. Conflicts of Interest.

- A. **Standard of Conduct.** A public official shall refrain from participation in a matter when there exists an actual, potential or reasonably perceived conflict of interest arising from a personal relationship or a financial involvement that would cause a reasonable person to believe that the public official cannot act in his or her official capacity without self-interest or bias.
- B. **Referral.** When there is a question as to the existence of a conflict of interest under the standard set forth in the preceding paragraph, the matter may be referred to the municipal board for its advisory opinion as follows:
 1. The Mayor or a City Councilor may refer to the unaffected members of the Council the question of whether he or she has an actual, potential, or reasonably perceived conflict of interest. Similarly, any public official serving on another board, committee, or commission may refer such a question to the other members of that body; or
 2. Two or more members of the City Council, municipal committee or commission may refer to the applicable board the question of whether another member of that body, or of a public official who serves under the authority of that body, has an actual, potential or reasonably perceived conflict of interest.
- C. **Ethics Determination.** The municipal board shall determine whether the public official should refrain from participation in a matter because of actual, potential, or reasonably perceived existence of a conflict of interest, arising from a personal relationship or a financial involvement that would cause a reasonable person to believe that the public official cannot act in his or her official capacity without self-interest or bias. The opinion rendered shall be advisory only; and such decision by any municipal board, or the lack of action thereon, shall not absolve a public official from the requirements elsewhere set forth by law.¹¹

Sec. 2-303. Incompatible Employment Positions.

A. Standard of Conduct.

1. **Public Officials.** A public official who is a municipal employee shall not hold a supervisory position, or be senior in the chain-of-command, to an individual with whom he or she has a personal relationship or a financial involvement, unless:
 - a. The relationship is disclosed by the public official to the Mayor; and

¹¹ E.g., 30-A M.R.S.A. Sec. 2605.

- b. The Mayor approves a management plan that is designed to prevent favoritism or any other improper influence in connection with the employment relationship and that provides ongoing oversight by a person or persons not subordinate to either of the individuals who have the personal relationship or financial involvement; and
- c. The Mayor reports to the City Council the existence of the potential incompatibility of employment positions and the establishment of a management plan to address the same.

Neither shall the mayor hold a supervisory position, or be senior in the chain-of-command, to an individual with whom he or she has a personal relationship or financial involvement, unless:

- a. The relationship is disclosed to the City Council by the Mayor, and
- b. The legislative body approves a management plan that is designed to prevent favoritism, or any other improper influence with the employment relationship, and that provides ongoing oversight by a person or persons not subordinate to the Mayor.

Neither shall a City Councilor hold a supervisory position, or be senior in the chain-of-command, to an individual with whom he or she has a personal relationship or financial involvement, unless:

- a. The relationship is disclosed to the Mayor and the City Council; and
- b. The non-affected members of the Council approve a management plan that is designed to prevent favoritism or any other influence in connection with the employment relationship and that provides ongoing oversight by a person or persons not subordinate to the City Councilor.

- 2. **Existing Permanent Employees.** The employment status of existing full-time municipal employees, as of the date of adoption of this ordinance, shall not be affected thereby, notwithstanding that a relative is an elected official or employee. However, an appropriate management plan may be required where necessary.
- 3. **Newly Hired Employees.** After the date of adoption of this ordinance, no new candidate for permanent employment shall be hired if there would be created such a conflict, i.e., a relative is already employed or serves as an elected official. In the event that a relative is elected to municipal office (Mayor, City Council) after this ordinance is adopted, those department heads and administrative employees that were hired after the initial date of this ordinance will be asked to resign. In the event that a relative of a bargaining unit member, who was hired after the date of this ordinance, is later elected to office, that employee's job classification will become fixed; i.e. no promotion or reclassification to a higher position, during the relative's term(s) of office, to the extent consistent with law.¹²

D. **Management plan guidelines.** When such employment conflicts exist, the City will follow these guidelines in preparing management plans:

¹² E.g. 26 M.S.R.A. Sec. 961, et seq.

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1. Any direct supervisor-subordinate relationship shall be avoided.
2. Similarly, any indirect supervisor-subordinate relationship also should be prevented, except with the express approval of the Mayor. In the event that the mayor is the source of the potential conflict, then such relationship is prohibited except with the express approval of the City Council.
3. Any job assignment affecting relatives, which may jeopardize the City's or other employees' security, is prohibited.
4. Any other working relationship between relatives which appears to present a potential or actual morale problem for them or for co-workers must be approved by the mayor, or if that office is the source of the morale problem, the working relationship must be approved by the City Council.
5. To the fullest extent possible, when any of these situations occur, the employee(s) involved will be asked to resolve the conflict by a certain date.
6. If the employee is unable to reach a resolution by that time, the options available to the City include:
 - a. Transfer of one or more employees;
 - b. Restructuring a position or a city department; or
 - c. Request for resignation of an employee, or, if applicable, of a City Councilor or Mayor.

Chapter 3
ALL-TERRAIN VEHICLES*

Sec. 3-1. Purpose.

The purpose of this chapter is to regulate the use of all-terrain vehicles within the municipal boundaries of Westbrook in order to protect the environment, to ensure that recreational use of all-terrain vehicles is compatible with other recreational uses, to promote the health and safety of the operators and the general public, and to restrict the use of such vehicles to areas where such use is appropriate and permitted. (Ord. of 10-06-86, Sec. A)

Sec. 3-2. Definitions.

[For the purpose of this chapter, the following words and phrases shall have the meanings ascribed to them in this section:]

All-terrain vehicle means a motor-driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-track, multi-wheel or low-pressure tire vehicle; a motor cycle or related two-wheel, three-wheel or belt driven vehicle; an amphibious machine; or other means of transportation deriving motive power from a source other than muscle or wind. This definition does not include a snowmobile; an airmobile; a construction or logging vehicle used for its common function; a farm vehicle used for farming purposes; or a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.

ATV means an all-terrain vehicle.

Operate means to use an ATV in any manner within the jurisdiction of the city, whether or not the vehicle is moving.

Owner means any person holding title to an ATV. (Ord. of 10-06-86, Sec. C)

Cross reference – Duties of city clerk generally, Sec. 2-94.

Sec. 3-4. Operation.

(a) On land of another:

- (1) No person shall go upon or cross the private land of another to operate an ATV without first having obtained the written permission of the landowner, which written permission shall be carried on the person of the operator.
- (2) Any person operating an ATV on land of another shall stop and identify himself and shall produce his written permission to operate on the land upon the request

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- **Editor's note** – An ordinance of Oct. 6, 1986, Secs. A-E, amended this Code by adding thereto a new Ch. 22 ½. In order to preserve the alphabetical sequence of chapters within the Code, the editor has redesigned the provisions of the ordinance as Ch. 3 Secs. 3-1 – 3-5.
 - Cross reference – **Traffic, Ch. 31.**

of the landowner or his duly authorized representative or a law enforcement officer.

(b) Prohibited acts:

- (1) No person shall operate an ATV on city-owned property without the written permission of the city council. Such unlawful area of operation include, but are not limited to, the following:
 - a. All sidewalks and streets, except for purposes of limited crossing as provided by state law.
 - b. In or adjacent to all water bodies, including marshes, lakes, rivers and streams, including the Mill Brook and Stroudwater River valleys.
 - c. The grounds and parking lots of all schools and municipal buildings.
 - d. All parks, the city forests and all recreation fields and facilities, including bike paths, skating rinks and swimming pools.
 - e. Any cemetery or burial place.
 - f. Sewer easements and waste disposal sites.
- (2) No person shall operate an ATV, without written permission, in or adjacent to any utility right-of-way including railroad tracks, electrical power lines and petroleum pipelines.
- (3) Except with the written permission of the owner, no person may operate an ATV within two hundred (200) feet of any dwelling, church, school, hospital, nursing or convalescent home. (Ord. of 10-06-86, Sec. D)

Sec. 3-5. Violations and penalties.

- (a) Civil penalty. Any person who engages in any act prohibited by this chapter shall be liable for a civil penalty as set forth in section 1-8.
- (b) Additional penalties. For any violation of the regulations governing ATVs, the owner or operator may be subject to the following penalties: Impoundment for a period of five (5) days for a first offense; ten (10) days for a second offense; thirty (30) days for any subsequent offense within a twelve-month period. The impounded vehicle will be stored until an impoundment fee of five dollars (\$5.00) per day has been paid by the owner, together with unpaid fines. All sums collected shall inure to the city. (Ord. of 10-06-86, Sec. E)

Cross references – Cemeteries, Ch. 7; electricity, Ch. 11; city forest, Ch. 15; libraries, Ch. 19; parks generally, Sec. 23-1 et seq.; sanitary facilities, sewers, etc., generally, Sec. 26-1 et seq.; streets and sidewalks, Ch. 29.

Chapter 4
ANIMALS AND FOWL¹³

Art. I. In General, Secs. 4-1 – 4-24

Art. II. Dogs, Secs. 4-25 – 4-41

ARTICLE I. IN GENERAL

Sec. 4-1. Livestock at large prohibited.

No owner or person having charge of any horse, cow, ox, beef cattle, swine, goat or other grazing animal shall turn loose or knowingly permit the same to go at large in any street or property of another. (Ord. of 8-19-85)

Sec. 4-2. Pens, yards to be clean.

All animals shall be kept in such place, regardless of zoning restrictions, and in such manner, as not to be offensive to neighboring residents or the public. Pens and yards shall be kept deodorized by dried earth or other effective absorbent. (Ord. of 8-19-85)

Sec. 4-3. Required action upon finding dead or dying animals.

When any animal is found dead or dying on the private premises of any person not the owner or person in charge of such animal, or is so found in any public street or place, any person having knowledge of the matter shall report the facts immediately to the police department, and the police department shall take charge of the animal forthwith.

If by license or otherwise, the owner of such animal is known to the police department, the department shall notify at once such owner, who shall immediately dispose of the body. If the owner is unknown, the department shall dispose of the animal forthwith. (Ord. of 8-19-85)

Sec. 4-4. Disposal of dead or dying animals on public, private property.

- (a) On public property. No person shall dispose of any dead or fatally sick or injured animal on public property except with the approval of the municipal officers and in accordance with regulations set by the municipal officers.
- (b) On private property. No person shall dispose of any dead or fatally sick or injured animal on private property unless such animal is thoroughly covered in such a manner that no part is exposed to view and that no odor shall emanate therefrom. Provided further that such an animal must be covered in such a manner that it could

¹³**Editor's note** – An ordinance of August 19, 1985, amended Ch. 4 in its entirety to read as herein set out. Prior to amendment, Ch. 4 consisted of Art. I, Secs. 4-1 – 4-14 and Art. II, Secs. 4-25 – 4-48 pertaining to similar subject matter and derived from an ordinance of Nov. 18, 1963, Sec. 1; and ordinance of Nov. 3, 1965, and an ordinance of Sept. 9, 1969, Sec. 1-17.

not reasonably be expected to be exposed by the action of the elements or by other animals. (Ord. of 8-19-85)

State law reference – Depositing dead animals where nuisance, 22 M.R.S.A. Sec 1562

Sec. 4-5. Conveyance of dead animals through streets.

No person shall carry or convey any dead animal through or upon any street or public place unless the same is so covered that no part of it is exposed to view and no odors can emanate therefrom. (Ord. of 8-19-85)

Sec. 4-6. Surrender for quarantine or destruction mandatory.

No person shall fail or refuse to surrender any animal for quarantine or destruction as required in this chapter when demand is made therefor by the canine control officer. (Ord. of 9-09-69, Sec. 13)

Sec. 4-7. Rabies – Disposition of bitten animals.

During the period of a rabies quarantine as provided in this chapter, every animal bitten by an animal adjudged to be rabid shall be forthwith destroyed or, at the owner's expense and option, shall be treated for rabies infection by a licensed veterinarian, or held thirty (30) days under quarantine by the owner in the same manner as other animals are quarantined. (Ord. of 8-19-85)

Sec. 4-8. Same – Canine control officer to direct disposition.

The canine control officer shall direct the disposition of any animal found to be infected with rabies. (Ord. of 8-19-85)

Sec. 4-9. Same – Surrender of carcass to canine control officer.

The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the canine control officer. (Ord. of 8-19-85)

Sec. 4-11. Reclaiming impounded animals.

Any animal, other than a dog, impounded under the provisions of this chapter may be reclaimed by the owner upon payment of the impoundment fees as set forth in the following section. (Ord. of 8-19-85)

Sec. 4-12. Impoundment fees.

- (a) Any animal impounded hereunder may be reclaimed after payment to the city, through the Westbrook Police Department, of this following impoundment fees:
- | | |
|---|---------|
| (1) For each animal, first impoundment | \$5.00 |
| (2) For each animal, second impoundment | \$20.00 |

- (3) For each animal, third and subsequent impoundment \$40.00
- (b) In addition to the charges for impoundment, the owner shall pay a further fee for board to the animal shelter, in accordance with its current fee schedule. (Ord. of 8-19-85)

Sec. 4-13. Authority to transfer title of impounded animals.

The city may transfer title of all animals held by it at its animal shelter after the legal detention period of eight (8) days has expired, and the animal has not been claimed by its owner. (Ord. of 8-19-85)

Sec. 4-14. Disposal of impounded animals.

Any animal impounded under the provisions of this chapter and not reclaimed by its owner within eight (8) days may be humanely destroyed or placed in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this chapter. (Ord. of 8-19-85)

Secs. 4-15 – 4-24. Reserved.

ARTICLE II. DOGS

Sec. 4-25. Definitions.

Unless the context otherwise indicates, the following definitions as used in this article shall be construed according to the definitions given below:

At large shall mean off the premises of the owner, unless on another's premises by permission of the owner or occupant thereof, and not controlled by a leash, cord, chain or other tether, of not more than eight (8) feet in length.

Dangerous dog shall mean a dog which shall cause reasonable fear of bodily injury to any person by attacking or threatening to attack such person.

Dog shall be intended to mean both male and female of the species.

Owner shall be intended to mean any person or persons, firm, association or corporation owning, keeping, or harboring a dog. (Ord. of 8-19-85)

Sec. 4-26. Number of dogs limited; exception to breeders, etc.

It shall be unlawful for any person to keep or harbor within the city more than three (3) dogs over six (6) months old in or about any premises, house, barn or other building or in or about all buildings on any one (1) premises occupied by any one (1) family, and the keeping or harboring of dogs as aforesaid is hereby declared to be a nuisance.

The payment of a license fee shall not be construed to allow the keeping of more than three (3) dogs, as aforesaid, on any one (1) premises.

This limitation shall not apply to any person engaged in the commercial business of breeding, buying, selling, boarding of dogs or operating a veterinary hospital. (Ord. or 8-19-85)

Sec. 4-27. License required.

No dog shall be kept within the city unless such dog has been licensed and such license displayed by the owner in accordance with state law. (Ord. of 9-09-69, Sec. 2; Ord. of 8-19-85)

State law reference – Similar provisions, 7 M.R.S.A., Sec. 3451 et seq.

Sec. 4-28. Running at large prohibited.

No dog shall be kept within the city unless such dog has been licensed and such license displayed by the owner in accordance with state law. (Ord. of 8-19-85)

Sec. 4-29. Impoundment authorized; disposal of the unclaimed.

Unlicensed dogs, whether or not at large, and dogs found running at large, whether or not licensed, shall be taken up and impounded in the shelter designated by the city as the city animal shelter, and there confined in a humane manner for a period of not less than eight (8) days; and may thereafter be disposed of in a humane manner if not claimed by their owners. (Ord. of 8-19-85)

Sec. 4-30. Reclaiming after impoundment.

The owner of an impounded dog shall be entitled to resume possession of such dog upon compliance with the license provisions of this article and the payment of the impoundment fees as set in section 3-12. (Ord. of 8-19-85)

Sec. 4-31. Disposition of dogs causing personal injury.

It shall be unlawful for the owner or keeper of any dogs, upon being notified that such dog has bitten any person or has injured any person as to cause an abrasion of the skin, to either sell or give away such dog or to permit such dog to be taken beyond the limits of the city, except under the care of a veterinarian, or to destroy such dog without permission from the canine control officer.

The owner, upon receiving such notice, shall immediately place such dog under confinement for a period of at least fourteen (14) days or shall deliver such dog to the police department. (Ord. of 8-19-85)

Sec. 4-32. Mayor's authority to proclaim rabies quarantine.

Upon positive diagnosis of rabies in any dog within the city, the mayor shall proclaim and invoke a citywide quarantine for a period of **thirty (30) days**, and upon the invoking of such quarantine, no animal shall be permitted in the streets during such period. In the

event that additional cases of rabies are detected during the quarantine, the mayor may extend such period for an additional six (6) months. (Ord. of 8-19-85)

State law reference – Dept. of Health and Welfare may order mayor of city to have dogs killed in violation of quarantine, 22 M.R.S.A. Sec. 1311.

Sec. 4-33. Impoundment of bitten dogs.

Any dog, which shall have been bitten by another dog having or suspected of having rabies, shall be immediately impounded for observation as provided in this article. (Ord. of 8-19-85)

Sec. 4-34. Canine officer to be notified of deaths of confined dogs.

The canine control officer shall be notified immediately by the person in charge of the city animal shelter of the death of any dog while under confinement. (Ord. of 8-19-85)

Sec. 4-35. Canine control officer to investigate dog bites.

The canine control officer shall investigate all dog bites referred to him by the police department. (Ord. of 8-19-85)

Sec. 4-36. Killing vicious dogs.

If any dangerous, fierce, or vicious dog cannot be safely taken up and impounded, such dog may be slain by any policeman or duly authorized canine control officer. (Ord. of 8-19-85)

Sec. 4-37. Canine officer to receive remains of dogs injuring persons.

In the event a policeman slays a dog which has bitten or caused a skin abrasion to a person and less than fifteen (15) days have elapsed from injury, the policeman shall deliver the carcass and brain forthwith to the canine control officer. (Ord. of 8-19-85)

Sec. 4-38. Bitches in heat.

The owner of any bitch in heat shall keep the same confined or on a leash at all times and shall not permit such dog to be at large within the city or on any premises other than those of the owner. Each bitch found in violation hereof is hereby declared a nuisance and shall be impounded, and the owner shall be deemed guilty of a civil infraction. (Ord. of 8-19-85)

Sec. 4-39. Dangerous dogs a nuisance; owner's responsibility.

A dangerous dog, as defined in section 4-25, is hereby declared a nuisance. The owner of any such dog shall keep the same confined in a secure enclosure or on a chain or leash

controlled by the owner at all times and shall not permit such dog to be at large within the city. (Ord. of 8-19-85)

Sec. 4-40. Dogs disturbing the peace.

No person shall own or keep any dog which creates a nuisance by habitually barking, biting, howling or in any other manner disturbing the peace and quiet of any other person, regardless of the time of day. Any person, upon the first occasion of violating this provision, shall be given a warning by the animal control officer or any law enforcement officer, that his dog or dogs have been disturbing the peace and quiet of another person or persons. The owner or keeper, upon any subsequent violation within six (6) months from such a warning, commits a civil violation. (Ord. of 8-19-85)

State law reference – Similar provisions, 7 M.R.S.A., Sec. 3706.

Sec. 4-41. Penalties.

Whoever owns or keeps a dog contrary to the provisions of this chapter shall be punished by a fine of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100.00) per violation, to be recovered by complaint for the use of the city before the Ninth District Court, Division of Southern Cumberland County. In addition, the court may make such further order regarding the destruction, restraint or other disposition of the offending dog as it deems appropriate. (Ord. of 8-19-85)

Chapter 5
BICYCLES¹⁴

Sec. 5-1. Applicability of regulations; parental responsibility.

- (a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.
- (b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.
- (c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein. (Ord. of 7-13-65, Sec. 10-1)

Sec. 5-2. Applicability of traffic laws, ordinances.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic ordinances of the city applicable to the driver of a vehicle, those provisions of the laws and ordinances which by their nature can have no application. (Ord. of 7-13-65, Sec. 10-11)

Sec. 5-3. Obedience to traffic-control devices.

- (a) Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police office.
- (b) Whenever authorized signs are erected indicating that no right, left or “U” turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians. (Ord. of 7-13-65, Sec. 10-12)

Cross reference – Traffic-control devices, obedience required, Sec. 31-25 et seq.

Sec. 5-4. Lamps, other equipment.

- (a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least two hundred (200) feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp

¹⁴ **Cross reference** – Bicycle riders clinging to vehicles prohibited, Sec. 31-14.

State law reference – Bicycle regulations 29 M.R.S.A., Sec. 1961 et seq.

emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

- (b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred (100) feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.
- (c) Every bicycle shall be equipped with a brake, which will enable the operator to make the braked wheel skid on dry, level, clean pavement. (Ord. of 7-13-65, Sec. 10-20)

Sec. 5-5. License for residents; attachment required.

No person, who resides in the city, shall ride or propel a bicycle on any street or upon any public path set aside for the exclusive use of bicycles unless such bicycle has been licensed and a license plate is attached thereto as provided herein. (Ord. of 7-13-65, Sec. 10-2)

Sec. 5-6. Application for license, plate; fee.

Application for a bicycle license and license plate shall be made upon a form provided by the city and shall be made to the chief of police.

An annual license fee of twenty-five cents (\$0.25) shall be paid to the city before each license or renewal thereof is granted. This fee may be waived, when, in the opinion of the chief of police, the applicant has completed an approved bicycle safety course. (Ord. of 7-13-65, Sec. 10-3; Ord. of 9-10-73)

Sec. 5-7. Issuance of license; records.

- (a) The chief of police, upon receiving proper application for a bicycle license is hereby authorized to issue bicycle licenses which shall expire biennially on the last day of April.
- (b) The chief of police shall not issue a license for any bicycle when he knows or has reason to believe that he applicant is not the owner of or entitled to the possession of such bicycle.
- (c) The chief of police shall keep a record of the number of each license, the date issued, the name and address of the person to whom issued, and the number of the frame of the bicycle for which issued, and a record of all bicycle license fees collected by him. (Ord. of 7-13-65, Sec. 10-4)

Sec. 5-8. Issuance of license plate; attachment required; unauthorized removal.

- (a) The chief of police, upon issuing a bicycle license, shall also issue a license plate bearing the license number assigned to the bicycle and the name of the city, the calendar year for which issued and the expiration date thereof.
- (b) The chief of police shall cause each license plate to be firmly attached to the rear mudguard or frame of the bicycle for which issued in such position as to be plainly visible from the rear.

- (c) No person shall remove a license plate from a bicycle during the period for which issued, except upon a transfer of ownership or in the event the bicycle is dismantled and no longer operated upon any street in the city. (Ord. of 7-13-65, Sec. 10-5)

Sec. 5-9. Inspection prior to licensing.

The chief of police, or an officer assigned such responsibility, shall inspect each bicycle before licensing the same and shall refuse a license for any bicycle which he determines is in an unsafe mechanical condition. (Ord. of 7-13-65, Sec. 10-6)

Sec. 5-10. Renewal of license.

Upon the expiration of any bicycle license, such license may be renewed upon application and payment of the same fee as upon an original application. (Ord. of 7-13-65, Sec. 10-7)

Sec. 5-11. Transfer of ownership.

Upon the sale or other transfer of a licensed bicycle, the licensee shall remove the license plate and shall either surrender the same to the chief of police or may upon proper application, but without payment of an additional fee, have such plate assigned to another bicycle owned by the applicant. (Ord. of 7-13-65, Sec. 10-8)

Sec. 5-12. Rentals regulated.

A rental agency shall not rent or offer any bicycle for rent unless the bicycle is licensed and a license plate is attached thereto as provided herein and such bicycle is equipped with the lamps and other equipment required in this chapter. (Ord. of 7-13-65, Sec. 10-9)

Sec. 5-13. Reports by dealers.

Every person engaged in the business of buying or selling new or secondhand bicycles shall make a report to the chief of police of every bicycle purchased or sold by such dealer, giving the name and address of the person from whom purchased or to whom sold, a description of such bicycle by name and make, the frame number thereof, and the number of license plate, if any, found thereon. (Ord. of 7-13-65, Sec. 10-10)

Sec. 5-14. Rider to be on seat; number of passengers.

- (a) Every person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.
- (b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. (Ord. of 7-13-65, Sec. 10-13)

Sec. 5-15. Riding on roadways, bicycle paths.

- (a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (b) Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.
- (c) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway. (Ord. of 7-13-65, Sec. 10-14)

Sec. 5-16. Speed.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing. (Ord. of 7-13-65, Sec. 10-15)

Sec. 5-17. Emerging from alley, driveway or building.

The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on such sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on such roadway. (Ord. of 7-13-65, Sec. 10-17)

Sec. 5-18. Carrying articles.

No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one (1) hand upon the handlebars. (Ord. of 7-13-65, Sec. 10-16)

Sec. 5-19. Parking.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such manner as to afford the least obstruction to pedestrian traffic. (Ord. of 7-13-65, Sec. 10-18)

Sec. 5-20. Riding on sidewalks prohibited.

No person shall ride a bicycle upon any sidewalk in any district. (Ord. of 7-13-65, Sec. 10-19)

Sec. 5-21. Penalty; impoundment.

Any person seventeen (17) years of age or over who violates any of the provisions of this chapter shall, upon conviction be punished in accordance with section 1-8 of this Code. The chief of police, when satisfied that a juvenile under the age of seventeen (17) years has ridden a bicycle in violation of any of the provisions of this chapter, may impound

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the bicycle for a period not to exceed five (5) days for the first offense, for a period not to exceed ten (10) days for a second offense, for a period not to exceed thirty (30) days for any subsequent offense. (Ord. of 7-13-65, Sec. 10-21)

Chapter 6
BUILDINGS¹⁵

- Art. I. In General, Secs. 6-1 – 6-16
Art. II. Floodplain Management Requirements, Secs. 6-17 – 6-34
Art. III. Surface Drainage, Secs. 6-35 – 6-39

ARTICLE I. IN GENERAL

Sec. 6-1. Applicability.

This chapter relates to the design, materials of construction, alteration, maintenance, repair, and use of buildings and structures or parts thereof to promote the health, safety and general welfare of the occupants and users of such buildings and structures, and of the public, and for protection against catching and spreading of fires, and prevention of accidents. (1942 Rev. Code, Ch. XXXIII)

Sec. 6-2. BOCA Basic Building Code – Adopted.

There is hereby adopted for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupation, location and maintenance of buildings and structures, including permits and penalties, that certain building code known as the BOCA Basic Building Code, 1978, Seventh Edition, as promulgated by the Building Officials and Code Administrators International, Inc. of which code not less than three (3) copies have been and are now on file in the office of the city clerk, and the same are hereby adopted and incorporated as if fully set out at length herein, provided however, that the provisions as enumerated below in section 5-2.1 are hereby adopted as amendments to the said BOCA Basic Building Code. (Ord. of 12-05-62, Sec. 1; Ord. of 6-02-70; Ord. of 3-05-79)

Sec. 6-3. Same – Amendments.

The following provisions of the BOCA Basic Building Code are hereby amended as follows:

- (A) There shall be inserted the words: “the City of Westbrook,” in Sections 100.1, 100.2, 107.1, 200.1, 200.3, 300.1, 1406.2, 1702.1, 1800.5 of said BOCA Code.
- (B) The date of adoption to be inserted in Section 105.1 of said BOCA Code shall be the date of final adoption of this section [March 5, 1979].
- (C) Section 107.2, 107.3, 107.4 of said BOCA Code shall be omitted.
- (D) Section 117.4 of said BOCA Code is amended to read as follows: Sec. 117.4 Moving of Buildings. The fee for moving a building shall be set by the city council.

¹⁵ **Cross references** – Electricity, Ch. 11; fire protection and prevention Ch. 12; housing, Ch. 17; mobile home standards and installations generally, Sec. 21-2.1; plumbing, Ch. 24; streets and sidewalks, Ch. 29; municipal officers to number buildings, Sec. 29-3 et seq.’ Subdivisions, Ch. 30; zoning, Part III.
State law reference – Municipal inspection of buildings, 25 M.R.S.A. Secs. 2351-2360.

- (E) Section 117.5 of said BOCA Code is amended to read as follows: Sec. 117.5 Demolition. The fee for the demolition of a building shall be set by the city council.
- (F) Section 121.4 of said BOCA Code is amended to read as follows: Sec. 121.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the building official, or of a permit or certificate issued under the provisions of this code, shall be subject to the general penalty provisions of section 1-8 of the Westbrook Code of Ordinances.
- (G) Section 122.2 of said BOCA Code is amended to read as follows:
Sec. 122.2 Unlawful Continuances. Any person who shall continue any work in or about the structure after having been served with a stop-work order, except such work as he is directed to perform to remove a violation or unsafe conditions, shall be subject to the general penalty provisions of section 1-8 of the Westbrook Code of Ordinances.
- (H) Sections 125.1 through 125.2 shall be omitted from said BOCA Code.
- (I) The second sentence of Section 301.2 of said BOCA Code is amended to read as follows:
The limits of such fire limit areas shall be shown on a map or plan entitled “Fire Limit Areas for the City of Westbrook”, which shall be incorporated herein by reference after approval by the city council.
(I.1) Section 301.4. A new section shall be added to the BOCA Code as Section 301.4 Industrial Fire Limits. These fire limits shall comprise the areas zoned “industrial” within the City of Westbrook, as shown on the city zoning map and incorporated by reference herein.
(I.2) Reserved.
- (J) Insert in the second line of Section 1307.2.1, the number “five (5)”.
- (K) Insert in the second line of Section 1307.2.2, the number “five (5)”.
- (L) Insert in the fourth and fifth [lines of Section 1406.1] the following amounts, “\$100,000/\$300,000”, and in the sixth line the following amount “\$50,000”.
(Ord. of 8-05-74; Ord. of 3-05-79; Ord. of 12-19-83; Ord. of 7-06-87)

Sec. 6-2.2. Reserved.¹⁶

Sec. 6-3. Department of building inspection.

The city’s department of building inspection, which is hereby established, shall be under the charge and direction of the code enforcement officer who shall perform all the duties and functions of the building inspector as herein provided. (1942 Rev. Code, Ch. XXXIII, Sec. 101 (a); Ord. of 2-21-77)

Cross reference – Code enforcement officer, Secs. 2-136, 2-137.

¹⁶ **Editor’s note** – Former Sec. 6-2.2, which contained amendments to the 1967 edition of the National Building Code relative to sound-deadening materials, has been deleted at the discretion of the editors as being superseded by the provisions of an Ord. of March 5, 1979, which amended Code Sec. 6-2 and 6-2.1 by adopting the 1978 edition of the BOCA Basic Building Code and certain amendments thereto. The deleted provisions, former Sec. 6-2.2, derived from an Ord. of August 5, 1974.

Sec. 6-4. Reserved.

Editor's note – Ord. of February 21, 1977, repealed Sec. 6-4 pertaining to the appointment of a building inspector.

Sec. 6-5. Municipal officers to establish inspector's jurisdiction.

The municipal officers shall define the limits within which the building inspector shall have jurisdiction, which shall include the thickly settled portion of the city.

Sec. 6-6. Appointment of deputy inspector authorized; duties generally.

Whenever the building inspector shall become incapacitated, the municipal officers may appoint or authorize the inspector to appoint a deputy building inspector who shall serve until removed by the municipal officers, but in no event beyond the term for which the building inspector was appointed. The deputy shall perform such duties as may be required of him by the inspector. (1942 Rev. Code, Ch. XXXIII, Sec. 101(D))

Sec. 6-7. Inspector's qualifications generally.

The person appointed building inspector shall possess the following qualifications: He shall have had at least five (5) years' practical experience as an architect, builder, registered mechanical, civil or structural engineer, building construction superintendent, building construction foreman, or inspector of building construction. (1942 Rev. Code, Ch. XXXIII, Sec. 101))

Sec. 6-8. Inspector's duties generally.

The duties of the building inspector shall be:

- (a) To enforce this Code, to examine all applications for permits, to sign and issue permits, certificates and notices, and to inspect buildings, structures, equipment and appliances therein erected, altered, repaired or installed under permits issued by the department.
- (b) To examine buildings, structures, equipment, and apparatus thereof, therein, or thereon which he shall have cause to believe are dangerous, to investigate all complaints made in writing and to take such action as is stipulated herein or in the laws of Maine.
- (c) To make an annual report to the mayor and council, to keep dated records showing the location, character, use, cost and specifications of buildings, structures and equipment and apparatus thereof, therein, or thereon for which certificates or permits are issued, showing complaints filed with the department and showing matters, and records of all fees and other monies collected. (1942 Rev. Code, Ch. XXXIII, Sec. 101 (F))

Sec. 6-9. Mayor to appoint inspector a constable.

The mayor shall appoint the building inspector a legal constable for the period of the inspector's term of office which shall be one year. (1942 Rev. Code, Ch. XXXIII, Sec. 101 (C))

Sec. 6-10. Council may appoint assistants to department.

The council may appoint and arrange for the payment of as many assistants as may be necessary for the proper conduct of the department of buildings inspector. (Ord. of 5-04-64, Ch. XXXIII, Sec. 101 (E))

Sec. 6-11. Authorized personnel to perform inspections; certificates issued subsequent to written, certified report.

Inspections required under the provisions of this chapter shall be made by the building inspector, a duly appointed assistant or a deputy, provided that he may accept reports of inspectors of recognized inspection services, after investigation of their qualifications and reliability. No certificates called for by any provision of this chapter shall be based on such reports unless the same are in writing and certified by a responsible officer of such a service. (1942 Re. Code, Ch. XXXIII, Sec. 101(F)(4))

Sec. 6-12. Fees to be paid for permits.

No application for a building permit shall be considered to have been filed until the stipulated fee therefor has been paid in full to the city.

Provided, however, that no permit fee shall be charged to any resident sixty-two years of age or older for work to be done on their own personal dwelling. (Ord. of 3-15-55; Ord. of 9-14-70; Ord. of 5-05-75)

Sec. 6-13. Fee schedule.

(a) Building permits:		
Up to \$50,000.00 for labor and material, per thousand		\$ 5.00
Over \$50,000.00 for labor and material, per thousand		5.00
Minimum fee		25.00
(b) Demolishing a building		30.00
(c) Installation of ventilation, refrigeration sprinkler system, and automatic fire detection and alarm system, per thousand		5.00
(d) Signs	1 – 10 square feet	15.00
	11 – 50 square feet	25.00
	51+ square feet	..50.00
(e) Heating installation (flat fee)		25.00
(f) Temporary stands, booths or platforms for sale of merchandize or other business purpose		25.00
(g) Installations not otherwise listed		25.00
(h) Related permits (permits not applied for until after the work has been started) double the amount of the fee as set forth above;		

subject to a maximum of \$50.00 as to such additional amount.
(Ord. of 9-14-70; Ord. of 7-06-82; Ord. of 3-03-86; Ord. of 1-22-91)

Sec. 6-14. Permit, fee, bond for moving large objects through streets; validity of permits.

In addition to the requirements of the building code, no person shall haul, move or draw through, over or upon any street, way or public place in the city any building or structure without first obtaining a permit therefor, which may be granted by the mayor upon a written application therefor approved by the chief of police and the filing with the city treasurer of a bond in the sum of one thousand dollars (\$1,000.00) with sureties approved by the city solicitor indemnifying and saving harmless the city from any and all costs or claims for damage occasioned thereby, and the payment of a twenty-five dollar (\$25.00) fee for such permit.

Said permit when granted shall be valid for a period of thirty (30) days from the date it is issued and, unless otherwise specifically authorized in writing by the chief of police, it shall be invalid between the hours of 6:00 a.m. and midnight. (1942 Rev. Code, Ch. XVI Sec. 17, Ord. of 5-03-60; Ord. of 9-14-70; Ord. of 1-22-91)

State law reference – Municipal authority to issue permits to regulate the moving of heavy objects, 29 M.R.S.A. Sec. 1703.

Sec. 6-15. Contents of moving permit; issuance when necessary to disconnect, remove wires.

- (a) The application, required by the preceding section, shall set forth a general description of building or structure to be moved, with its dimensions, and designate the particular streets over which it is to be moved; also a statement as to whether or not it shall be necessary to cut, disconnect or remove any wires or poles belonging to a public utility for such purpose.
- (b) In the event it is necessary to cut, disconnect, or remove any wires or poles belonging to a public utility for such purpose, such permit may only be granted by the municipal officers, after due notice and hearing, in accordance with the provisions of the 35 M.R.S.A. 2487, unless such petition shall be accompanied by written permission from such petition shall be accompanied by written permission from such public utilities for the cutting, disconnecting, or removal of such wires or poles.
(1942 Rev. Code, Ch. XVI, Sec. 17; Ord. of 5-03-60)

Sec. 6-16. In-ground swimming pools.

- (a) Permit required. A building permit shall be required for the installation of any swimming pool, which is located below ground level.
- (b) Protective fencing or wall required. All in-ground swimming pools shall be protected by a fence or wall not less than four (4) feet in height, with a latch-type gate, to make the pool inaccessible to small children, except that any such existing enclosure which is at least three (3) feet high may be continued until replaced.

- (c) Installation of fence or wall; temporary fencing allowed. Such a fence or wall must be installed prior to filling the pool with water, except that temporary fencing shall be allowed for a period of sixty (60) days which must be replaced by a permanent enclosure within said sixty (60) day grace period. (Ord. of 12-27-73)

Editor's note – Ord. of December 27, 1973, amended this Code by adding Secs. 6-2a – 6-2c, which sections were re-designated as Sec. 6-16 by the editors for purposes of classification. Said ordinance provided that the provisions included herein as Secs. 6-16(b) and (c) shall not affect existing pools until June 1, 1974.

ARTICLE II. FLOODPLAIN MANAGEMENT REQUIREMENTS¹⁷

Sec. 6-17. Establishment.

The city elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provided that areas of the city having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard system and review procedure for development activities in the designated flood hazard areas of the city.

The areas of special flood hazard, zones A, A1-A30, AE, AO, and AH, identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study – City of Westbrook, Maine, Cumberland County” dated January 2, 1981, with accompanying “flood insurance rate map” and “flood boundary and floodway map”, is hereby adopted by reference and declared to be a part of this article. (Ord. of 7-06-87, Sec. 1)

Sec. 6-18. Definitions.

Unless specifically defined below, words and phrases used in this article shall have the same meaning as they have at common law and to give this article its most reasonable application. Word used in the present tense includes the future, the singular number includes the plural, and the plural number includes the singular. The word “may” is permissive; “shall” is mandatory and not discretionary.

Adjacent grade means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of shallow flooding means a designated AO and AH zone on a community's flood insurance rate map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of one to three (3) feet where a clearly defined channel does not exist,

¹⁷ **Editor's note** – Section 1 of an ordinance adopted July 6, 1987, repealed Art. II in its entirety and enacted a new Art. II in lieu thereof to read as set out in Secs. 6-17 – 6-28. Former Art. II contained Secs 5-17 – 5-31, which pertained to special flood hazard area building permit requirements, and divided from an ordinance of May 25, 1977, and an ordinance of Dec. 29, 1980, Secs. 1 and 2.

Cross references – Code enforcement officer, Sec. 2-136 et seq.; electricity, Ch. 11; housing, Ch. 17; mobile homes and mobile home parks, Ch. 21; plumbing; ch. 24, sanitary facilities, sewers and wastewater treatment, Ch. 26; streets and sidewalks, Ch. 29; subdivisions, Ch. 30; zoning, Part III; jurisdiction of zoning board of appeals, Part III, Sec. V; flood plain provisions, Sec. XXII.

where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by pounding or sheet flow.

Area of special flood hazard means the land in the floodplain having a one-percent or greater chance of flooding in any given year, as specifically identified in the flood insurance study cited in section 6-17 of this article.

Base flood means the flood having a one-percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Building See “structure”.

Certificate of compliance means a document signed by the code enforcement officer stating that a structure is in compliance with all of the provisions of this article.

Code enforcement officer means any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Development means any change caused by individuals or entities to improved or unimproved real estate, including, but not limited to, the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operation; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

Elevated building means a non-basement building built, in the case of a building in zones A1-30, AE, A, A99, AO, AH, B C, X, or D, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, posts, piers, or “stilts”; and adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood. In the case of zones A1-30, AE, A, A99, AO, AH, B, C, X, or D, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls less than three (3) feet in height with openings sufficient to facilitate the unimpeded movement of floodwaters.

Flood or flooding means:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters.
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(a) of this definition.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood insurance rate map (FIRM) means an official map of a community, on which the administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood insurance study. See “flood elevation study”.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of “flooding”)

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing means a combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. See “regulatory floodway”.

Floodway encroachment lines means the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for selected size flood and floodway conditions.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Locally established datum means, for purposes of this article, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NVGD) or any other established datum and is used in areas where mean sea level data is too far from a specific site to be practically used.

Lowest floor means lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building’s lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements section 6-23 (j) of this article.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community.

100-year flood. See "base flood".

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and in Zone A is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half (1/2) the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, substantial improvement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of the permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial improvement means any repair, reconstruction, or improvement of a structure, the value of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur at the time of the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specification which are solely necessary to assure safe living conditions, or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Variance means a grant of relief by a community from the terms of a floodplain management regulation.

Violation means the failure of a structure or other development to fully comply with a community's floodplain management regulations or ordinance. (Ord. of 7-06-87, Sec. 1)

Sec. 6-19. Flood hazard development permit – Required.

Before any construction or other development (as defined in section 6-18) including the placement of manufactured homes, begins within any areas of special flood hazard established in section 6-17, a flood hazard development permit shall be obtained from the code enforcement officer. This permit shall be in addition to any other building permits which may be required pursuant to the codes and ordinances of the city. (Ord. of 7-06-87, Sec. 1)

Sec. 6-20. Same – Application.

The application for a flood hazard development permit shall be submitted to the code enforcement officer and shall include:

- (a) The name and address of the applicant;
- (b) An address and a map indicating the location of the construction site;
- (c) A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot;
- (d) A statement of the intended use of the structure;
- (e) A statement as to the type of sewage system proposed;
- (f) Specification of dimensions of the proposed structure;
- (g) The elevation in relation to mean sea level, or to a locally established datum in zone A only, of the:
 - (1) Base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. In zones A1 – 30, AE, AO and AH from data contained in the “Flood Insurance Study – City of Westbrook, Maine”, as described in section 6-17; or,
 - b. In zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
 - (2) Highest and lowest grades at the site adjacent to the walls of the proposed building;
 - (3) Lowest floor, including basement; and whether or not such structures contain a basement; and
 - (4) Level, in the case of non-residential structures only, to which the structure will be flood-proofed;
- (h) A description of a base flood elevation reference point established on the site of all new or substantially improved structures;
- (i) A written certification by a registered Maine surveyor that the elevations shown on the application are accurate;

- (j) Certification by a registered professional engineer or architect that flood-proofing methods for any non-residential structures will meet the flood-proofing criteria of sec. 6-23;
- (k) A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and
- (l) A statement of construction plans describing in detail how each applicable development standard in section 6-23 will be met. (Ord. of 7-06-87, Sec. 1)

Sec. 6-21. Same – application fee, expert’s fee.

A non-refundable application fee of fifty dollars (\$50.00) shall be paid to the code enforcement officer.

An additional fee may be charged if the code enforcement officer and/or board of appeals needs the assistance of a professional engineer or other expert. The expert’s fee shall be paid in full by the applicant within ten (10) days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of this article and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the code enforcement officer may appeal that decision to the board of appeals. (Ord. of 7-06-87, Sec. 1)

Sec. 6-22. Same – Review of applications.

The code enforcement officer shall:

- (a) Review all applications for the flood hazard development permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of section 6-23 (development standards) have, or will be met;
- (b) Utilize, in the review of all flood hazard development permit applications, the base flood data contained in the “Flood Insurance Study – City of Westbrook, Maine”, as described in section 6-17. In special flood hazard areas where base flood elevation and floodway data from federal, state or other sources, including information obtained pursuant to sections 6-20, paragraph (g) (1) b.; 6-23; paragraph (j); and 6-25, paragraph (d), in order to administer section 6-23 of this article;
- (c) Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in section 6-17 of this article;
- (d) In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- (e) Notify adjacent municipalities, the department of environmental protection, and the Maine state planning office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- (f) Issue a two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor

only above the base flood level. At that time the applicant shall provide the code enforcement officer with an application for Part II of the flood hazard development permit and shall include an elevation certificate completed by a registered Maine surveyor for compliance with the elevation requirements of section 6-23, paragraphs (f), (g), or (h). Following review of the application, which review shall take place within three (3) working days of receipt of the application, the code enforcement officer shall issue Part II of the flood hazard development permit. Part II shall authorize the applicant to complete the construction project; and

- (g) Maintain, as a permanent record, copies of all flood hazard development permits issued and data relevant thereto, including provisions of section 6-26 of this article and copies of elevation certificates and certificates of compliance required under the provisions of section 6-24 of this article. (Ord. of 7-06-87, Sec. 1)

Sec. 6-23. Development standards.

All developments in areas of special flood hazard shall meet the following applicable standards:

- (a) New construction or substantial improvement of any structure shall:
 - (1) Be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (2) Use construction materials that are resistant to flood damage;
 - (3) Use construction methods and practices that will minimize flood damage; and
 - (4) Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (b) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
- (c) All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of floodwaters into the system and discharges from the systems into floodwaters.
- (d) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (e) All development shall be constructed and maintained in such a manner that no reduction occurs in the flood-carrying capacity of any watercourse.
- (f) New construction or substantial improvement of any residential structure located within:
 - (1) Zones A1 – 30, AE and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 - (2) Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwaters away from the proposed structures;
 - (3) Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. At least one foot higher than the depth specified in feet on the community's flood insurance rate map; or

- b. At least three (3) feet if no depth number is specified.
- (4) Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to section 6-20, paragraph (g) (1) b.; section 6-22, paragraph (b); or section 6-25.
- (g) New construction or substantial improvement of any non-residential structure located within:
 - (1) Zones A1 – 30, AE and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. Be flood-proofed to at least one foot above the base flood level so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by section 6-20, paragraph (j) and shall include a record of the elevation above mean sea level of the lowest floor including basement.
 - (2) Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwaters away from the proposed structures.
 - (3) Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. At least one foot higher than the depth specified in feet on the community's flood insurance rate map; or,
 - b. At least three feet if no depth number is specified; or,
 - c. Together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and flood-proofing standards of section 6-23, paragraph (g) (1).
 - (4) Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to sections 6-20, paragraph (g) (1) b.; 6-22, paragraph (b); or 6-25, paragraph (d).
- (h) New or substantially improved manufactured homes located within:
 - (1) Zones A1-30, AE, or AH shall:
 - a. Be elevated on a permanent foundation such that the lowest floor is at least one foot above the base flood elevation; and,
 - b. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - 1. Over-the-top ties anchored to the ground at the four (4) corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than fifty (50) feet long require one additional tie per side); or by,

2. Frame ties at each corner of the home, plus five (5) additional ties along each side at intermediate points (manufactured homes less than fifty (50) feet long require four (4) additional ties per side.
 3. All components of the anchoring system described in section 6-23, paragraphs (h) (1) b. 1. and 2. shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
- (2) Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
 - (3) Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. At least one foot higher than the depth specified in feet on the community's flood insurance rate map; or,
 - b. At least three (3) feet if no depth number is specified; and,
 - c. Meet the requirements of section 6-23, paragraphs (h) (1) a. and b.
 - (4) Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to sections 6-20, paragraph (g) (1) b.; 6-22, paragraph (b); or 6-25, paragraph (d).
- (i) Floodways:
- (1) In zones A1-30 and AE riverine areas, for which a regulatory floodway is designated on the community's "flood boundary and floodway map", encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels with the community during the occurrence of the base flood discharge.
 - (2) In zones A1-30 and AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. Is consistent with the technical criteria contained in section 2-7 entitled "Hydraulic Analyses", Flood Insurance Study – Guidelines and Specifications for Study Contractors' (FEMA 37/September, 1985, as amended)
 - (3) In zone A riverine areas, in which the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half (1/2) the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of section 6-23, paragraph (I) (2).
- (j) New construction or substantial improvement of any structure in zones A1-30, AE, AO, AH, and A that meets the development standards of section 6-23, including the elevation requirements of paragraphs (f), (g), or (h) and is elevated on posts, columns,

piers, piles, “stilts”, or crawlspaces less than three (3) feet in height may be enclosed below the elevation requirements provided all the following criteria are met or exceeded:

- (1) Walls, with the exception of crawlspaces less than three (3) feet in height, shall not be part of the structural support of the building;
- (2) Enclosed areas are not “basements” as defined in section 6-18; and
- (3) Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either:

- a. Be certified by a registered professional engineer or architect; or,
- b. Meet or exceed the following minimum criteria;
 1. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 2. The bottom of all openings shall be no higher than one foot above the lowest grade;
 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of floodwaters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means; and
 4. The enclosed area shall not be used for human habitation; and
 5. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building. (Ord. of 7-06-87, Sec. 1)

Sec. 6-24. Certificate of occupancy.

No land in a special flood hazard area shall be occupied or used, and no structure, which is constructed or substantially improved, shall be occupied until a certificate of occupancy is issued by the code enforcement officer subject to the following provisions:

- (a) The applicant shall submit an elevation certificate completed by:
 - (1) A registered Maine surveyor for compliance with section 6-23 paragraphs (f), (g), or (h), and
 - (2) A registered professional engineer or architect, in the case of flood-proofed non-residential structures, for compliance with section 6-23, paragraph (g).
- (b) The application for a certificate of occupancy shall be submitted by the applicant in writing along with a completed Elevation Certificate to the code enforcement officer.
- (c) The code enforcement officer shall review the application within three (3) working days of receipt of the application and shall issue a certificate of occupancy, provided the building conforms to the provisions of this article and all other requirements of the city. (Ord. of 7-06-87, Sec. 1)

Sec. 6-25. Review of subdivision and development proposals.

The planning board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations

and all projects on five (5) or more acres or, in the case of manufactured home parks divided into two (2) or more lots, assure that:

- (a) All such proposals are consistent with need to minimize flood damage.
- (b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- (c) Adequate drainage is provided so as to reduce exposure to flood hazards.
- (d) All proposals include base flood elevation and, in a riverine floodplain, floodway data.
- (e) Any proposed development plan shall include a statement that the developer will require that structures on lots in the development be constructed in accordance with section 6-23 of this article and that such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including, but not limited to, a time-share interest. The statement shall clearly articulate that the municipality may enforced any violation of the construction requirement and that fact shall also be included in the deed on any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the planning board or local reviewing authority as part of the approval process. (Ord. of 7-06-87, Sec. 1)

Cross reference – Planning board, Sec. 2-265 et seq.

Sec. 6-26. Appeals and variances.

The board of appeals may, upon written application of an aggrieved party, hear and decide appeals from determinations of the code enforcement officer in the administration of the provisions of this article. The board of appeals may grant a variance from the requirements of this article consistent with state law and the following criteria:

- (a) Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (b) Variances shall be granted only upon:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws and ordinances;
 - (3) A showing that the existence of the variance will not cause a conflict with other state, federal or local laws or ordinances; and,
 - (4) A determination that failure to grant the variance would result in “undue hardship”, which in this subsection means that:
 - a. The land in question cannot yield a reasonable return unless a variance is granted;
 - b. The need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood;
 - c. The granting of a variance will not alter the essential character or the locality; and
 - d. The hardship is not the result of action taken by the applicant or a prior owner.

- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d) Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - (1) Other criteria of sections 6-26 and 6-23 are met; and,
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (e) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a state inventory of historic places, without regard to the procedures set forth in section 6-26, paragraphs (a) through (d).
- (f) Any applicant who meets the criteria of section 6-26, paragraph (a) through (e) shall be notified by the board of appeals in writing over the signature of the chairman that:
 - (1) The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) per one hundred dollars (\$100.00) of insurance coverage;
 - (2) Such construction below the base flood level increases risks to life and property; and
 - (3) The applicant must agree in writing that he is fully aware of all the risks inherent in the use of land subject to flooding; assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain; and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- (g) The board of appeals shall submit to the code enforcement officer a report of all variance actions, including justification for the granting of the variance and an authorization for the code enforcement officer to issue a flood hazard development permit, which includes any conditions to be attached to said permit. (Ord. of 7-07-87, Sec. 1)

Sec. 6-27. Enforcement and penalties.

- (a) It shall be the duty of the code enforcement officer to enforce the provisions of this article pursuant to 30 M.R.S.A. section 4966.
- (b) The penalties contained in 30 M.R.S.A. section 4966 shall apply to any violation of this article.
- (c) In addition to any other actions, the code enforcement officer, upon determination that a violation exists, shall submit a declaration to the administrator of the Federal Insurance Administration requesting a denial of flood insurance. The declaration shall consist of:
 - (1) The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 - (2) A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;

- (3) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
- (4) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
- (5) A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended. (Ord. of 7-06-87, Sec. 1)

Sec. 6-28. Conflict with other ordinances.

This article shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, by law, permit, or provision of law. Where this article imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this article shall control. (Ord. of 7-06-87, Sec. 1)

Secs. 6-29 – 6-34. Reserved.

ARTICLE III. SURFACE DRAINAGE¹⁸

Sec. 6-35. Applications to be reviewed.

Each application for a building permit for new construction or for additions to existing buildings, which involves excavation, filling or re-grading of land, shall include appropriate information or re-grading of land, shall include appropriate information relative to the topography, existing and proposed grades of the applicant's land and the grade of all abutting streets. Any natural watercourses, ditches or swales, whether water runs constantly or only intermittently, must be identified and shown on plans submitted. If any natural drainage is affected by the proposed construction, the application must show how the applicant intends to provide adequate drainage to prevent any unnecessary runoff onto abutting properties and/or streets. (Ord. of 5-15-78)

Sec. 6-36. Review of application by building inspector and city engineer.

Prior to the issuance of any building permit, the application for which is covered by section 6-35, the building inspector shall refer the application to the city engineer who shall review same to assure that the proposed construction will not interfere with existing drainage patterns to the detriment of abutting landowners or the city. Any proposed changes in existing drainage patterns must be approved by the city engineer. (Ord. of 5-15-78)

Sec. 6-37. Approval subject to certain conditions.

¹⁸ **Editor's note** – An ordinance of August 24, 1981, not specifically amendatory of the Code, has been treated, at the discretion of the editor, as amending Sec. 6-38 by the substitution of the words "zoning board of appeals" for the words "board of building code appeals".

Cross reference – Zoning board of appeals, Part III, Sec. V.

Applications for building permits covered by section 6-35 may be approved subject to such reasonable conditions as the building inspector deems necessary to assure compliance with the intents and purposes of this article and to assure that such construction does not create surface drainage problems. (Ord. of 5-15-78)

Sec. 6-38. Appeal.

Applicants for building permits subject to this article may appeal from the decisions of the building inspector and/or the city engineer to the zoning board of appeals. Such appeal shall be in writing and submitted to the city clerk within thirty (30) days from the date of the decision appealed from. (Ord. of 5-15-78; Ord. of 8-24-81)

Sec. 6-39. Liability.

The city and its agents assume no liability for any damages, costs or claims arising from the granting of any permit subject to this article nor does it accept responsibility for any surface water problems which may result from any construction pursuant to such permits. (Ord. of 5-15-78)

Chapter 7
CEMETERIES

- Art. I. Parks and Cemeteries Department, Secs. 7-1 – 7-15
- Art. II. Woodlawn, Secs. 7-16 – 7-52
- Art. III. Saccarappa, Secs. 7-53 – 7-63
- Art. IV. Highland Lake, Sec. 7-64

ARTICLE I. PARKS AND CEMETERIES DEPARTMENT

Sec. 7-1. Director of Parks and Cemeteries; appointment; removal.

The Director of Parks and Cemeteries shall be appointed by the Mayor, with approval by a majority of all the members of the City Council. He or she may be removed on complaint of the Mayor, sustained by a majority vote of all the members of the City Council. (Ord. of 8-05-91)

Sec. 7-2. Residency Required.

The Director of Parks and Cemeteries within a reasonable time of his appointment, shall become an inhabitant of Westbrook and shall maintain residency within the City as a condition of employment. (Ord. of 8-05-91)

Sec. 7-3. Duties generally.

The Director of Parks and Cemeteries, acting under the instructions and supervision of the Mayor, and with the advice of the Board of Cemetery Trustees where appropriate, shall:

- (a) Plan, direct, and manage all the functions of the City's Parks and Cemeteries Department, and supervise all its personnel, who shall be responsible to him in the performance of their respective duties.
- (b) Supervise the maintenance of city grounds, parklands, and recreational facilities.
- (c) Direct the maintenance of all the publicly owned or maintained cemeteries and burial grounds within the City; arrange and supervise all interments therein; and account for all monies received from the sale of lots, burial charges, and payments for lot care.
- (d) Maintain and keep safe records, plans, surveys, and accounts, entering therein, among other entries, the location and ownership of all cemetery lots, the particulars of each interment; the dates and extent of all maintenance and repairs; and statements of all expenditures and payments received.
- (e) Perform such other duties relative to the operation and supervision of the Parks and Cemeteries Department as the Mayor or the Council may from time to time direct.
- (f) Prepare and present to the Mayor at his request periodic reports of the activities of the department, and assist in the preparation of a proposed annual budget for the operation of the department. (Ord. of 8-05-91)

Secs. 7-4 – 7-15. Reserved.

ARTICLE II. WOODLAWN¹⁹

Sec. 7-16. Established; subject to regulation.

The tract of land situated on the northeasterly side of Stroudwater Street, purchased by the Town of Westbrook from Jonathan M. Knapp, in September, 1885, is hereby set apart and appropriated for the burial of the dead, under the name of Woodlawn Cemetery, and such lands adjacent thereto as the town or city has or may acquire to extend its limits shall be included in and subject to all the ordinances or regulations made for the government and control of Woodlawn Cemetery. (1942 Rev. Code, Ch. XXIV, Sec. 1)

Sec. 7-17. Council to manage cemetery; authority to delegate control.

The direct control and management of Woodlawn Cemetery and the other municipally maintained burial grounds shall be vested in the City Council, which may exercise this power through the Director of parks and Cemeteries, with the advice of the Cemeteries Board of Trustees, who shall have no authority other than granted by said Council or the provisions of this chapter. (1942 Rev. Code, Ch. XXIV, Sec. 2; Ord. of 8-05-91)

Sec. 7-18. Appointment of board members; vacancies.

The first Board of Trustees of Woodlawn Cemetery shall be appointed by the Mayor as soon as may be after the organization of the city government for the ensuing year, one (1) to hold office for one (1) year, one for two (2) years, and the third for three (3) years. Thereafter, the Mayor shall annually appoint one (1) trustee in place of the one whose term of office expires, to hold such office for a term of three (3) years, unless sooner removed, and until his successor is appointed and qualified.

All vacancies in the Board by death, resignation or otherwise shall be filled by the Mayor by appointment for the remainder of the term. (1942 Rev. Code, Ch. XXIV, Sec. 2)

Sec. 7-19. Board to select officers.

The Board of Trustees of Woodlawn Cemetery shall annually organize by choosing a chairman to preside at their meetings and a secretary to keep a record of the business of the board and to conduct its correspondence, both to be chosen from the members of the board. (1942 Rev. Code, Ch. XXIV, Sec. 3; Ord. of 8-05-91)

Sec. 7-20. Duties of the board of trustees.

The board of trustees shall annually make out and present to the council a statement of the general condition and affairs of the cemetery, such statement shall contain an estimate of all property belonging to the city and under their charge, including lots made up and

¹⁹ **Cross reference** – Trustees of Woodlawn Cemetery to manage River Bank Park, Sec. 23-1.

State law reference – Cemetery corporations, 13 MRSA Secs. 1031-1349

not sold, land not made into lots, tools, etc., such statement shall be presented to the council not later than the last day of January annually. (1942 Rev. Code, Ch. XXIV, Sec 4; Ord. of 8-05-91)

Sec. 7-21. Director to keep burial records; contents.

The parks and Cemeteries Director shall keep a record of all burials made in the cemetery in a book to be kept by him for the benefit of the cemetery, such record shall contain the name, age, residence and of the section, number and name of the lot holder upon whose lot such burial is made. (1942 Rev. Code, Ch. XXIV, Sec. 13; Ord. of 8-05-91)

Sec. 7-22. Misuse of funds, personal interest in contracts by trustees, director prohibited.

No trustee of the board of parks and cemeteries shall be personally interested in any contract for labor or materials used in the cemetery.

A trustee who shall violate this section or who shall receive, retain or appropriate to his own use funds of any description belonging to the cemetery shall be subject to immediate removal from office by the mayor. (1942 Rev. Code, Ch. XXIV, Sec. 14; Ord. of 8-05-91)

Sec. 7-23. Director to lay out lots; setting prices.

The Parks and Cemeteries Director shall cause the cemetery to be laid out into lots with convenient paths and avenues, and he, together with the Board of Trustees, shall recommend to the City Council the appropriate price for the sale of such lots, said sums to include the cost of perpetual care by the City. (1942 Rev. Code, Ch. SSIV, Sec. 5; Ord. of 8-05-91)

Sec. 7-24. Director to file certificate upon sale of lot.

Immediately upon the sale of a lot in Woodlawn Cemetery, the Parks and Cemeteries Director shall give a certificate to the City Treasurer setting forth the name of the person with the number and section of the lot and the price. (1942 Rev. Code, Ch. XXIV, Sec 5; Ord. of 8-05-91)

Sec. 7-25. Issuance of certificate after payment; form of certificate.

Upon the full payment for a lot in Woodlawn Cemetery, the treasurer shall deliver to the buyer a certificate substantially as follows:

CITY OF WESTBROOK

Be it known that the City of Westbrook, in consideration _____dollars, paid by _____ hereby gives and grants to said _____ heirs and assigns forever, the right to occupy for the purpose of burial, lot No. _____, section _____, in Woodlawn Cemetery in said City, being the lot described in the plan of the Cemetery on file in the office of the City Treasurer. This right is granted, and it to be held and enjoyed, subject

to all such general regulations as may be adopted by the City for the care and management of the cemetery and the due observance of order therein, and the same shall not be assigned or transferred without the consent of the Parks and Cemeteries Director endorsed thereon.

In witness whereof, this instrument is subscribed by its treasurer in behalf of said City, this _____ day of _____, A.D. (1942 Rev. Code, Ch. XXIV, Sec. 5; Ord. of 8-05-91)

Sec. 7-26. Additional charge when selling, transferring to nonresident.

In selling or transferring lots to nonresidents of the City of Westbrook, the Parks and Cemeteries Director shall charge an additional fifty dollars (\$50.00) over and above the cost to a resident of this city. (1942 Rev. Code, Ch. XXIV, Sec. 5; Ord. of 8-18-80; Ord. of 8-05-91)

Sec. 7-27. Price to include perpetual care.

The price of all lots in Woodlawn Cemetery shall include perpetual care of the same; perpetual care being the caring for the grass and keeping the same in good condition and properly cut. (1942 Rev. Code, Ch. XXIV, Sec. 9; Ord. of 8-05-91)

Sec. 7-28. Perpetual care for lots sold before May of 1896; bond to secure care.

- (a) All lots sold previous to May 20, 1896, shall receive perpetual care as described in the preceding section upon payment to the city of such price as shall be agreed upon by and between the City and the owners of such lots or their heirs or legal representatives. The City is authorized to fix upon any lot such price for any perpetual care as in their judgment would be just and proper between the City and applicants for the same.
- (b) Upon the receipt of a certificate from the Parks and Cemeteries Director setting forth the section, number and lot holder's name and residence, together with the care agreed upon and price of same, the treasurer shall, upon the payment of the price agreed upon in the certificate, issue to the party therein named a bond in the name and behalf of the city to secure such perpetual care, the penal sum in such bond to be double the price paid for such care. (1942 Rev. Code, Ch. XXIV, Sec. 9; Ord. of 8-05-91)

Sec. 7-29. Fund established, purpose; authority to loan.

The City Council may authorize the creation of such trust accounts as are necessary for the purpose of the maintenance, care and improvement of the Woodlawn Cemetery. All funds dedicated for the maintenance, care and improvement of cemeteries shall be deposited in such trust accounts. The funds authorized by this section shall under the care and custody of the treasurer, and such portion of the same as may not be needed for immediate use may be loaned to the city on interest. (1942 Rev. Code, Ch. XXIV, Sec. 7; Ord. of 8-05-91)

Sec. 7-30. Treasurer to keep records, open account.

The treasurer shall keep a record in which shall be entered all lots, agreeable to the plan of Woodlawn Cemetery, with their number and section, and with columns ruled for the names of purchasers of each lot, the price, date of sale and date of payment.

He shall also open a cemetery account in a book kept for that purpose, in which shall be entered all monies received on account of the cemetery. (1942 Rev. Code, Ch. XXIV, Sec. 7; Ord. of 8-05-91)

Sec. 7-31. Treasurer's annual report.

The city treasurer shall, in his regular annual report, submit a detailed statement of all receipts and expenditures for the past year, as shown by such cemetery account required by the preceding section. (1942 Rev. Code, Ch. XXIV, Sec. 7; Ord. of 8-05-71)

Sec. 7-32. Funeral Directors to provide information prior to delivery for burial.

It shall be the duty of the Funeral Director, who shall remove any body to Woodlawn Cemetery, to present a municipal burial/transit permit to the Parks and Cemeteries Director prior to the burial. (1942 Rev. Code, Ch. XXIV, Sec. 13; Ord. of 8-05-91)

Sec. 7-33. Permission of lot holder prior to burial.

No interment in Woodlawn Cemetery shall be made without the permission of the recorded holder of the lot or his legal representative. (1942 Rev. Code, Ch. XXIV, Sec. 8; Ord. of 8-05-91)

Sec. 7-34. Burials upon lots held by city.

Burials are prohibited on any lot where the right of occupancy is held by the City, however, the Parks and Cemeteries Director, upon receipt of an executed sales contract, may allow such burials to be made. (1942 Rev. Code, Ch. XXIV, Sec. 8; Ord. of 8-05-91)

Sec. 7-35. Paupers' graves; rebate upon removal.

The Parks and Cemeteries Director is authorized to set apart a plot of land in the cemetery to be kept in good condition for graves for City of Westbrook residents who are unable to purchase standard priced lots. (1942 Rev. Code, Ch. XXIV, Sec. 8; Ord. of 8-05-91)

Sec. 7-36. Director to direct landscaping.

All grading of lots and the setting out and or removal of trees, shrubs or hedges in Woodlawn Cemetery shall be under the direction of the Director. The cost of maintenance for shrubs, hedges and similar plantings shall be the responsibility of the owner of such lots. (1942 Rev. Code, Ch. XXIV, Sec. 11; Ord. of 8-05-91)

Sec. 7-37. Position of stones, monuments regulated; expense of repositioning.

Whenever in the judgement of the Director of Woodlawn Cemetery any stone or monument shall need to be straightened, the owner of such stone or monument shall be notified, and if the same is not attended to within a reasonable time to be prescribed by the Director, the Director may cause such work to be done at the expense of such owner. (1942 Rev. Code, Ch. XXIV, Sec. 10; Ord. of 8-05-91)

Sec. 7-38. Construction of foundations regulated.

No foundation for any stone, tablet or monument shall be laid in Woodlawn Cemetery except by the City. Provided, however, the City may authorize the construction of such foundation by other parties if done under the supervision of the Director. (1942 Rev. Code, Ch. XXIV, Sec. 12; Ord. of 8-05-91)

Sec. 7-39 – 7-52. Reserved.

ARTICLE III. SACCARAPPA

Sec. 7-53. Council to manage cemetery; authority to delegate control.

The direct control and management of Saccarappa Cemetery shall be vested in the City Council, which may exercise this authority through the Director of Parks and Cemeteries, with the advice of the Board of Trustees, and the control, care and management of said cemetery shall be subject to all the ordinances and regulations which apply to Woodlawn Cemetery. (1942 Rev. Code, Ch. XXVI, Sec. 1; Ord. of 8-05-91)

Sec. 7-54 – 7-63. Reserved.

ARTICLE IV. HIGHLAND LAKE

Sec. 7-64. Council to manage cemetery; authority to delegate control.

The direct control and management of Highland Lake Cemetery shall be vested in the City Council, which may exercise this authority through the Director of parks and Cemeteries, with the advice of the Board of Trustees, and the control, care and management of said cemetery shall be subject to all the ordinances and regulations which apply to Woodlawn Cemetery. (1942 Rev. Code, Ch. XXVI-A, Sec. 1; Ord. of 8-05-91)

Chapter 8
CITIZENS INITIATIVE AND REFERENDUM ORDINANCE²⁰

Sec. 8-1. Title and purpose of chapter.

This chapter shall be known and cited as the “Citizens Initiative and Referendum Ordinance”. The submission to the vote of the citizens of any proposed ordinance dealing with legislative matters on municipal affairs or any such ordinance enacted by the City Council may be accomplished by the presentation of a petition therefor to the City Council in the manner as hereinafter provided. However, the provisions of this chapter shall not apply to any administrative matters directly relating to the fiscal affairs of the city of tax levy of the city or any ordinance relative to such matters. (Ord. of 10-30-75)

Sec. 8-2. Petition for initiative or referendum.

- (a) Any five (5) or more qualified voters of the city may originate a petition for either an initiative or referendum election by signing such petition at the Office of the City Clerk. The originators of said petition shall be known as the petitioner’s committee and qualified as the circulators thereof.
- (b) Whenever requested by said five (5) or more voters, the City Clerk shall prepare the proper petition, with a copy of their submitted proposal or ordinance thereon or attached thereto, and upon it being signed by said voters, the City Clerk shall file said petition with the date thereon and shall, during office hours for thirty (30) business days thereafter, keep the same open for signature by other qualified voters of the city. Such petitions may then be circulated and endorsed only by those persons who have signed the original petition and they shall attest that said petition was signed in their presence.
- (c) At the expiration of said thirty-day period the City Clerk shall declare the petition closed and shall, at the next meeting of the City Council, present the said petition to the City Council with verification of the number of valid voter signatures attached thereto. (Ord. of 10-30-75)

Sec. 8-3. Number of signatures required; public hearing and validity.

- (a) If the number of valid signatures to said petition shall amount to at least the (10) percent of the number of registered voters as of the date of the last preceding regular municipal election, as certified by the Board of Registration, the City Council shall set a date for a public hearing to be held within twenty-one (21) days thereafter.
- (b) At the next council meeting after such public hearing the City Council shall upon finding the petition to be valid for initiative or referendum, take the necessary steps to submit to the voters of the city the ordinance or matter proposed by said petition;

²⁰ **Editor’s note** – Ord. of October 30, 1975, approved at referendum held November 4, 1975, amended this Code by adding provisions designated Ch. 25, 25-1 – 25-13. The editors re-designated such provisions as Ch. 8, 8-1 – 8-13, in view of the fact that Ord. of April 7, 1975, had already added a Ch. 25 to the Code, and also to preserve the alphabetical sequence of chapters within the Code.

Charter reference – Establishment of initiative and referendum procedure, Sec. 8.

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provided, however, that in the case of the referendum, the entire repeal by the City Council of the ordinance sought to be referred, and in the case of the initiative, the passage by the City Council of the desired ordinance shall put an end to all proceedings under said petition.

- (c) Any determination as to the insufficiency of a petition by the City Council shall be subject to court review. (Ord. of 10-30-75)

Sec. 8-4. Form for petition.

The petition used to originate the initiative or the referendum shall be substantially in the following form:

Petition to the City Council
Initiative or Referendum

For the Submission to the People of the Question:

Shall the proposed ordinance or matter, a copy of which is set forth herein or attached hereto, be adopted?

WE, the undersigned, under oath, depose, and say: That we are duly qualified voters of the City of Westbrook residing respectively at the addresses placed opposite our names, and we hereby petition the City Council to submit the foregoing questions to the voters of the City of Westbrook.

Names

Residence

Date

I, _____, the City Clerk of the City of Westbrook, do solemnly affirm that the signatures appended hereto are the signatures of the persons whose names they purport to be, to the best of my knowledge, information, and belief.

Date

City Clerk

Copies of said petition may then be circulated and all such copies when filed shall contain or have attached thereto the following affidavit executed by the circulator thereof:

Affidavit of Circulator

I, the undersigned, _____, being the Circulator of this petition upon my oath do solemnly affirm that I personally circulated this petition, that all signatures which total _____ in number were affixed in my presence and that I believe them to be the signatures of the persons whose names they purport to be.

Date: _____ Signature of Circulator: _____

Subscribed to upon oath before me on this _____ day of _____, 19--.

Signed: _____

Justice of the Peace/Notary Public

Sec. 8-5. Special election for initiative or referendum.

Within ten (10) days after the first city council meeting held after the public hearing the municipal officers shall set a time for the holding of a special election at which the proposed initiative or referendum question shall be submitted to the voters of the city. which special election shall be held not less than thirty (30) nor more than sixty (60) days after said council meeting; provided that, if the date set for said special election shall fall

within four (4) months of the next regular state or municipal election, no such special election shall be called and the question shall be submitted at said regular election. (Ord. of 10-30-75)

Sec. 8-6. Publication of ordinance.

Whenever any ordinance is required by the provisions of this chapter to be submitted to the voters for adoption or repeal, the City Council shall order the publication of the complete text thereof to be made in one or more newspapers of general circulation throughout the city, such publication to be made not less than five (5) days nor more than fifteen (15) days prior to the election. (Ord. of 10-30-75)

Sec. 8-7. Special ballots for initiative or referendum election.

The special ballots used for voting in said election shall set forth the title of such ordinance or other matter to be voted upon, together with two (2) brief explanatory statements of not more than one hundred (100) words each, one prepared by the City Council and the other prepared by the petitioners. These statements shall be descriptive of the intent of the proposed ordinance or matter to be descriptive of the intent of the proposed ordinance or matter to be voted upon. The ballot shall in substance also contain the words:

Shall the Ordinance entitled “_____” (or proposal) be		
adopted.	Yes	No
Shall the Ordinance entitled “_____” (or proposal) be		
repealed.	Yes	No

(Ord. of 10-30-75)

Sec. 8-8. Result of election; minimum votes required.

If a majority of the qualified voters voting on said proposed or referred ordinance or matter shall vote in favor thereof, it shall take effect upon the declaration of the result of such election after the official canvas of the return of the votes by the Municipal Officers; provided the total number of votes cast for and against the questions equals or exceeds thirty (30) percent of the total votes cast in the city at the last prior gubernatorial election. (Ord. of 10-30-75)

Sec. 8-9. Order on ballot and conflicting ordinances.

- (a) In the event that two (2) or more ordinances are submitted at the same election, they shall be placed upon the ballot in order of the priority of the filing of the respective petitions and shall be given precedence upon the ballot over any and all questions submitted by the City Council on its own initiative.
- (b) Any number of proposed or referred ordinances may be voted upon at the same election. In the event that two (2) or more ordinances adopted at the same election contain conflicting provisions, the ordinance receiving the highest number of votes at

such election shall be paramount and all questions of construction shall be determined accordingly. (Ord. of 10-30-75)

Sec. 8-10. City Council proposals.

The City Council may submit, on its own initiative, a proposition for the enactment, repeal, or amendment of any ordinance (except as herein otherwise provided) to be voted upon at any regular or special municipal election and should such proposition receive a majority of the votes cast thereon at any election, such ordinance shall be enacted, repealed, or amended accordingly, in accordance with the provisions of section 8-9. However, the Council may also submit advisory questions on any municipal matters to the voters if it so desires. (Ord. of 10-30-75)

Sec. 8-11. Repeal or amendment of enacted ordinance.

An ordinance enacted by a vote of the people at an initiative or referendum election shall not be repealed or amended for a period of five (5) years from the effective date of the ordinance, except by a vote of the people, unless such ordinance shall otherwise expressly provide. After five (5) years from the effective date of the ordinance, the City Council after a public hearing may repeal or amend such ordinance by vote of two-thirds (2/3) of its members. (Ord. of 10-30-75)

Sec. 8-12. Notice of public hearing.

Whenever a public hearing is required to be held in accordance with the provisions of this chapter, notice of the time, place, and purpose of said hearing shall be published as required by section 8-6. (Ord. of 10-30-75)

Sec. 8-13. Referendum for adoption of this chapter.

- (a) This chapter shall be submitted to the voters for approval or rejection by a majority vote of the electors of said city, and any subsequent amendments or revisions of this ordinance shall require the same ratification by the voters as required by Section 8 of the City Charter.
- (b) For the purpose of said election, the City Clerk shall reduce the subject matter to the following question: "Shall the ordinance entitle 'Citizens Initiative and Referendum Ordinance' as passed by the City Council, be approved" The voters shall indicate by a cross or check mark placed within the square on their ballots, under the word "yes" or "no" the opinion of same, and if this chapter is approved by the voters it shall take effect for all its purposes upon the declaration of the result of such election after the official canvas of the return of votes by the Municipal Officers. (Ord. of 10-30-75)

Chapter 9
CIVIL DEFENSE²¹

Sec. 9-1. Intent, purpose and effect of chapter; nature of civil defense office.

- (a) It is the intent and purpose of this chapter to establish an office that will insure the complete and efficient utilization of all of the city's facilities to combat disaster resulting from enemy actions or other disasters as defined herein.
- (b) The Westbrook Office of Civil Defense will be the coordinating agency for all activity in connection with civil defense; it will be the instrument through which the Mayor may exercise the authority and discharge the responsibilities vested in him in 25 M.R.S.A. Sections 301 – 323, as amended; Section 23 of the City Charter, as amended; and this chapter.
- (c) This chapter will not relieve any city department of the moral responsibilities or authority given to it in the City Charter or by local ordinance, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies. (Ord. 5-15-72)

Sec. 9-2. Creation, organization, administration and operation of civil defense office generally.

- (a) The Mayor is hereby authorized and directed to create an organization for the civil defense utilizing to the fullest extent the existing agencies within this city. The Mayor, as executive head of the municipal government, shall be responsible for the organization, administration and operation of the civil defense forces of this city.
- (b) An Office of Civil Defense is established within the executive department of the city government and under the direction of the Mayor. There shall be an executive head of the office of civil defense who shall be known as the Director of the Office of Civil Defense, and such assistants and other employees as are deemed necessary for the proper functioning of the organization, all of whom shall be appointed or approved by the mayor.
- (c) The Office of Civil Defense is established within the executive department of the city government and under the direction of the mayor. There shall be an executive head of the Office of Civil Defense shall operate according to this statute and regulations which shall be approved by the Westbrook City Council, and which may be amended from time to time by the City Council. (Ord. of 5-15-72)

9-3. Emergency powers and duties of mayor.

- (a) The Mayor may exercise the emergency power and authority necessary to fulfill his general powers and duties as defined in section 23 of the City Charter. The judgment

²¹ **Editor's note** – Ordinance of May 15, 1972, repealed former Ch. 2, Div. 9, Secs. 2-136 – 2-138, derived from Ord. of Dec. 19, 1950, Secs. 4 and 5, which pertained to the office of Director of Civil Defense, and enacted in lieu thereof new Div. 9, Secs. 2-136 – 2-139, which was redesignated as Ch. 9, 9-1 – 9-4, by the editors for purposes of classification. In the incorporation of said Ord. of May 15, 1972, the editors revised catchlines in several instances in order to facilitate indexing, reference and use.

State law reference – Civil defense generally, 25 MRSA Secs. 301 – 323.

of the Mayor shall be the sole criteria necessary to invoke emergency powers provided by the state statutes, municipal ordinances, or other appropriate legislative and administrative powers as the situation demands, and nothing in this chapter shall be construed as abridging or curtailing the powers or restrictions of the City Council as defined in section 12 of the City Charter.

- (b) The Mayor may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life and property of the people, and bind the City for the fair value thereof.
- (c) The Mayor may require emergency services of any city officers or employees. If regular city forces are determined inadequate, the Mayor may require the services of such other personnel as he can obtain that are available, including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to the privileges and immunities as are provided by state law, the City Charter and ordinances for regular city employees and other registered and identified civil defense and disaster workers and, upon demand, may receive appropriate compensation for their emergency employment. (Ord. of 5-15-72)

Sec. 9-4. Civil defense and disaster basic plan.

A comprehensive civil defense and disaster basic plan shall be adopted and maintained by resolution of the Council upon the recommendations of the Mayor. (Ord. of 5-15-72)

Chapter 10
ELECTIONS²²

Sec. 10-1. Wards described.

The division of the city into wards according to the provisions of the charter shall be as follows:

1st Ward

Beginning at the Portland and Westbrook line at Presumpscot River in the so called, Halidon area; thence southwesterly by the middle course of the Presumpscot River to a point about 800 feet southwesterly of the end of Hillside Road; thence northwesterly in a straight line running westerly of Hillside and Halidon Roads and through the intersection of East Bridge Street and Park Road to the Methodist Road where the Mill Brook tributary crosses said Road; thence westerly by the middle course of said Mill Brook tributary and as extended westerly to the Windham line; thence southerly along the Windham line to the middle of Cumberland Street; thence southeasterly along the middle of Cumberland Street to Bridge Street; thence southerly along the middle of Bridge Street to the Maine Central Railroad; thence southeasterly along the Maine Central Railroad to Main Street; thence southwesterly along Main Street to Rochester Street; thence by the middle of Rochester Street and Stroudwater Street to the Portland line; thence by the Portland line to the point of beginning.

2nd Ward

On the southerly side of the Presumpscot River, beginning at the westerly side of the Maine Central Railroad Bridge; thence by the middle course of the Presumpscot River to the center of Ash Street; thence southerly by the middle of Ash Street to the middle of Main street; thence westerly by the center of Main Street to the center of Church Street; thence southerly by the center of Church Street to Beaver Pond; thence westerly by the line of Beaver Pond to Brackett Street; thence southerly by the middle of Brackett Street to the center of Clark Street; thence easterly by the middle of Clark Street and along the northerly boundary line of Westbrook Gardens to the northeasterly corner thereof; thence southerly along the easterly boundary line of Westbrook Gardens and the extensions thereof to the Stroudwater River; thence southwesterly in a straight line to the Scarborough line at its intersection with the County (Route #22) Road; thence by the Scarborough, South Portland and Portland lines to Stroudwater Street and the Ward 1 boundary line; thence by the Ward 1 boundary line to the point of beginning.

3rd Ward

On the southerly and westerly side of the Presumpscot River beginning at the center of Ash Street; thence by the middle course of the Presumpscot River to the Gorham line; thence southerly along the Gorham line to the Scarborough line; thence southeasterly along the Scarborough line to its intersection with the County (Route #22) Road and the Ward 2 boundary line; thence northerly along the Ward 2 boundary line to the point of beginning.

²² **State law reference** – Elections generally, see 21 MRSA Sec. 1 et seq.

4th Ward

On the northerly and easterly sides of the Presumpscot River and bounded as follows: Beginning at the westerly side line of the Maine Central Railroad Bridge; thence by the westerly side line of the Maine Central Railroad location northerly to the center of Bridge Street; thence by the middle line of Bridge and Cumberland Streets to the Windham line; thence by the Windham line and the middle course of the Presumpscot River to the point of beginning.

5th Ward

On the northerly side of the Presumpscot River beginning at a point on the Presumpscot River at the Portland line and the northeasterly corner of the Ward 1 boundary line; thence easterly, northerly and westerly along the Ward 1 boundary line to the Windham line thence northerly along the Windham line to the Falmouth line; thence along the Falmouth line to the Presumpscot River and the Portland line; thence southeasterly along the Presumpscot River and the Portland line to the point of beginning. (Ord. of 8-02-71)

Editor's note – Ordinance of Aug. 2, 1971, repealed former Sec. 10-1 and Sec. 10-2 and enacted in lieu thereof a new Sec. 10-1 as herein set out. Said former sections described the wards and precincts of the city and were derived from 1942 Rev. Code, Ch. II, Sec. 1 and Ord. of 10-05-42.

Charter reference – City to be divided into wards, authority to review and change wards, Sec. 3.

Sec. 10-2. Reserved.

Note – See editor's note above.

Sec. 10-3. Form of warrant for calling ward meetings.

The form of warrants for calling meetings of the several wards shall be in accordance with 21 M.R.S.A. Sec. 672. (1942 Rev. Code, Ch. XXI, Sec. 1)

Sec. 10-4. Applicability of warrants; time of special meetings; polling hours.

The form of warrants for calling meetings of the several wards shall apply especially to ward meetings for municipal elections. Special meetings shall be opened at such times as the municipal officers shall determine and state in the warrant calling the same. The time for opening and closing the polls at municipal elections shall be established by vote of the municipal officers. (1942 Rev. Code Ch. XXI, Sec. 1)

Charter reference – Manner of calling, notifying citizens of the meetings in the wards, Sec. 5

State law reference – Polling time regulated, 21 M.R.S.A. Sec. 741.

Sec. 10-5. Service and return of warrants.

All warrants for calling ward meetings shall be served by any constable of the city and shall be returned to the municipal officers on or before the time of the meeting therein named. The service of warrants for ward meeting shall be made by posting copies thereof, in a conspicuous public place in each voting district in the ward mentioned in the warrant seven (7) days at least before the time of meeting mentioned therein. (1942 Rev. Code, Ch. XXI, Sec. 2)

Charter reference – Service and return of warrants, Sec. 5.

State law reference – Service and return of warrants for town meetings and notifying elections, 30 M.R.S.A. Sec. 2052, 21 M.R.S.A. Secs. 671, 673.

Sec. 10-6. Wardens to supervise vote counting; ward clerks to maintain, transmit record of count.

It shall be the duty of the wardens of the several wards to supervise the counting of the votes of all votes given at any election of ward and city officers, and a record stating the number of votes received by each person voted for, and for what office, shall be made by the ward clerk before the adjournment of the meeting, and a copy of such record, certified to by the warden and ward clerk, shall, within twenty-four (24) hours after the adjournment of such ward meeting, be transmitted by the ward clerk to the City Clerk. (1942 Rev. Code, Ch. XXI, Sec. 4)

Charter reference – Warden's duties, authority to choose assistants for wardens, Sec. 5.

State law reference – Marketing, counting and handling of ballots, 21 M.R.S.A. Secs. 921 – 927.

Sec. 10-7. Municipal officers to meet to canvass, tabulate returns.

After every city and state election, the municipal officers shall meet within twenty-four (24) hours after the closing of the polls for the purpose of canvassing and tabulating the election returns, which returns shall be laid before the meeting by the City Clerk. (1942 Rev. Code, Ch. XXI, Sec. 4)

Sec. 10-8. New election if fail to elect or fill office.

If after the canvassing and tabulating required by the preceding section, it shall appear that there is no choice of any of the officers to be elected from the citizens at large or from any of the several wards, or if any of the persons elected shall refuse to accept the office, warrants shall forthwith be issued for a new election. The same proceedings, so far as necessary, shall be had as provided in this article, and section 6 of the Charter, until said election is completed. (1942 Rev. Code, Ch. XXI, Sec. 4)

Charter reference – New election if fail to elect or fill office, Sec. 6.

Sec. 10-9. Clerk to issue notice to appear for oaths.

As soon as possible after the canvass required by this article is completed, the City Clerk shall issue his notice to all city and ward officers elect to appear and take their several

oaths of office agreeable to the provisions of the law, and shall cause such warrants to be served by any constable of the City. (1942 Rev. Code, Ch. XXI, Sec. 4)

Sec. 10-10. Form of warrant for city meetings.

The form of warrants for calling meetings of the inhabitants of the City under the provisions of Section 8 of the Charter shall be as follows:

STATE OF MAINE
CITY OF WESTBROOK, SS.

To _____, one of the constables of the City of
Westbrook, GREETING:

Agreeable to the request of fifty (50) qualified voters of said City, you are hereby required, in the name of the State of Maine, to notify and warn the inhabitants of said City of Westbrook, qualified to vote in city affairs, to meet at _____ in said City, on _____ the _____ at _____ o'clock in the _____ noon, then and there to act upon the following articles, viz.: _____.
HEREOF FAIL NOT and have you then and there this warrant, with your doings thereon. Given under my hand and the seal of said City, this _____ day of _____ in the year of our Lord _____.

Signed: _____, Mayor

(1942 Rev. Code, Ch. XXI, Sec. 5)

Charter reference – Authority to hold general meetings, Sec. 8.

State law reference – Warrant for calling town meetings, 30 M.R.S.A. Sec. 2052

Sec. 10-11. Manner of service.

The warrant mentioned in the preceding section shall be served by any constable of the City, who shall make such service by posting true and attested copies thereof at the main post office and at each of the city wards. (1942 Rev. Code, Ch. XXI, Sec. 6)

Sec. 10-12. Nomination to city office.

A person may be nominated to any city office by ward caucus, city caucus or by nomination petition following the procedure prescribed by 21 M.R.S.A., Sec. 491 et seq. The petition and consent must be filed with the clerk at least twenty-one (21) days prior to Election Day. (Ord. of 8-08-77)

State law reference – For similar provisions, see 30 MRSA Sec. 5354.

Chapter 11
ELECTRICITY²³

Sec. 11-1. National Electrical Code adopted.

For the purpose of establishing rules and regulations to safeguard persons and buildings and the contents thereof from hazards arising from the use of electricity for light, heat, power and other purposes, and prescribing minimum standards considered necessary for the public safety, there is hereby adopted the national Electrical Code, as recommended by the National Fire Protection Association, being particularly the 1984 edition. Three (3) copies are now on file in the City Clerk's Office. (1942 Rev. Code, Ch. XXXIII-B, Sec. 1; Ord. No. 4-02-63; Ord. of 11-03-65; Ord. of 9-30-74; Ord. of 7-16-84)

State law reference – Municipal authority to adopt by reference nationally known technical codes, 30 M.R.S.A. Sec. 2156.

Sec. 11-2. Code to be minimum standards.

It is intended by this chapter that all buildings within the boundaries of the city shall conform with the provisions and requirements of the national Electrical Code, and the provisions and requirements of said code shall be the minimum standards for the construction, alteration, use and maintenance of all buildings and the electrical fixtures and equipment therein contained within the limits of the city. (1942 Rev. Code, Ch. XXXIII-B, Sec. 2; Ord. of 4-02-63)

Sec. 11-3. Penalty for violating code.

Any person, being the owner of or having control of any building or structure or part thereof which violates any of the provisions of the National Electrical Code or who fails to conform to any of the provisions thereof in making any electrical installation within the city. After having received a ten (10) day notice of such violation and has not corrected same within such period, shall be subject to the penalty provisions of section 1-8 of this Code. Each and every day such a violation continues after such ten (10) day notice period shall constitute a separate offense. (1942 Rev. Code, Ch. XXXIII-B, Sec. 4; Ord. of 4-02-63)

Sec. 11-4. Liability for damages.

This chapter shall not be construed to relieve or lessen the responsibility or liability of any party owning, operating, controlling or installing any electric wiring devices or equipment for damages to person or property caused by any defect therein, nor shall the city be held as assuming any such liability by reason of the inspection authorized herein or by issuing a permit as herein provided for. (1942 Rev. Code, Ch. XXXIII-B, Sec. 5; Ord. of 4-02-63)

²³ **Cross references** – Buildings, Ch. 6; fire protection, Ch. 13.

State law reference – Electrical installations, 30 MRSA Secs. 2551 – 2560.

Sec. 11-5. Permit required for electrical work, exceptions enumerated.

A permit shall be obtained from the Department of Building Inspection before beginning any electrical installation work covered by the National Electrical Code within the City by the person intending to do such installation or by the owner of the premises in which it is to be done, but no permit shall be required under either of the following exceptions:

- (a) For any electrical repair work done for normal maintenance purposes.
- (b) Any person under the jurisdiction of the public utilities commission of this state or of the Federal Communications Commission.
- (c) The electrical equipment and work including construction, installation, operation, maintenance and repair in or about industrial or manufacturing plants.
- (d) Any electrical installations or equipment involved in the manufacture, test or repair of electrical equipment in the manufacturer's plant. (1942 Rev. Code, Ch. XXXIII-B, Sec. 3; Ord. of 4-02-63)

Sec. 11-6. Filing of application; contents.

Applications for permits required by the previous section shall be filed with the Department of Building Inspection and shall set forth the nature of the proposed electrical installation work and all other information necessary to show whether or not the installation work will conform with the provisions and requirements of the National Electrical Code. (1942 Rev. Code, Ch. XXXIII-B, Sec. 3; Ord. of 4-02-63)

Sec. 11-7. Issuance of permits; fees deposited in treasury.

- (a) If the Building Inspector or the Electrical Inspector is satisfied that the application required by this chapter is in proper form and that the proposed installation will conform with the national Electrical Code, either of them may issue the permit to the applicant on receipt of payment of the fee therefor in accordance with the schedule of fees enumerated in section 11-10, and shall keep a record therefor for the Department of Building Inspection.
- (b) All such fees shall be deposited in the treasury. (1942 Rev. Code, Ch. XXXIII-B, Sec. 3; Ord. of 4-02-62)

Sec. 11-8. Permits to be valid for one year; renewable.

Unless otherwise stated, each permit issued in accordance with the provisions of this chapter shall be valid for one (1) year from the date of issuance, except temporary permits which are valid only for the length of time issued for, and may be renewed by the original contractor for a period of not more than one (1) year for one-fourth (1/4) of the original fee. (Ord. of 2-07-67)

Sec. 11-9. Appeals.

In the event a permit required by this chapter is denied or that any person is aggrieved by any order or decision of the building inspector or the electrical inspector relative to the provisions or enforcement of this chapter, the applicant or aggrieved person may file an appeal in writing with the Council in accordance with the provisions of 30 M.R.S.A. Sec. 2151, which provisions shall apply to such an appeal. (Ord. of 2-07-67)

Sec. 11-10. Schedule of fees.

For fee purposes, outlets will be classed as lights, lighting and small appliance receptacles (plugs), and lighting switches. Unless otherwise stated, each permit issued will be valid to one year from the date of issue, except temporary permits, and may be renewed by the original contractor for a period of not more than one year, for one quarter (1/4) of the previous permit fee.

The schedule of fees for electrical permits is as follows:

- (a) THE MINIMUM PERMIT FEE SHALL BE \$25.00.
- (b) NEW HOME\$75.00
- (c) COMMERCIAL\$.03 per sq. ft.
- (d) WIRING
 - From 1 to 10 outlets \$2.00
 - From 11 to 30 outlets 4.00
 - From 31 to 60 outlets 6.000
 - Over 60 outlets, each additional outlet..... .20
 - (Each 5 feet or fraction thereon of fluorescent lighting and/or strip receptacle extensions, shall be classed as 1 outlet.
 - See NEC 1968, 220-2c)
- (e) APPLIANCES
 - Ranges, cooking tops, wall ovens, water heaters, dryers, mangles, disposals, clothes washers, dishwashers, etc., each unit..... \$3.00
- (f) DOMESTIC SPACE HEATING
 - Oil or gas furnaces, each unit \$3.00
 - Electric, each 1 kW or fraction thereof..... \$.40
- (g) COMMERCIAL SPACE HEATING
 - Oil or gas furnace, each unit \$3.00
 - Electric, each 1 kW or fraction thereof \$.40
- (h) SERVICES – *All work on services must be done by a Master Electrician*
 - Upgrade for 3 or more units.....\$50.00
 - Single phase, one meter Not more than 100 amperes\$25.00
 - Not more than 200 amperes\$25.00
 - Each additional 100 amperes or fraction thereof..... \$.75
 - Three phase, one meter
 - Not more than 100 amperes\$25.00
 - Not more than 200 amperes\$25.00
 - Not more than 400 amperes\$25.00
 - More than 400 amperes, each additional 100 amperes or fraction thereof..... \$1.50

WESTBROOK CODE

(i) METERS	
Each additional meter declared on same permit	\$1.50
Each additional meter on a separate permit	\$2.00
(j) MOTORS (total horsepower)	
Fractional to 5	\$2.00
Over 5 but not more than 10	\$3.00
Over 10 but not more than 25	\$4.00
Over 25 but not more than 50	\$5.00
Over 50 but not more than 100	\$10.00
Over 100, each additional 100 horsepower or fraction thereof	\$2.00
(k) TEMPORARY WORK (limited to six (6) months from date of permit	
Services, Single phase	\$15.00
Services, three phase	\$15.00
Wiring, not more than 50 outlets	\$15.00
Over 50 outlets	\$15.00
Motors, each motor	\$15.00
(l) REPAIRS	
Each floor	\$2.00
(m) MISCELLANEOUS	
Transformers not more than 1 kW, each	\$3.00
Transformers more than 1 kW, less than 5KW	\$5.00
Transformers more than 5KW, each additional 1KW	\$1.00
(n) DISTRIBUTION CABINETS OR PANELS (additional work)	
Not more than 20 circuits, each cabinet or panel	\$10.00
Over 20 circuits capacity, each cabinet or panel	\$10.00
(o) FIXTURES (permit to other than original contractor)	
Not more than 10 fixtures.....	\$1.50
Over 10 fixtures, each additional fixture.....	\$.15
(p) PRIVATE FIRE ALARM SYSTEMS	
Each control cabinet or panel	\$10.00
Wiring, each floor	\$2.00
(q) MOTORS, REPLACEMENT OF (total horsepower)	
Not more than 5 horsepower or less.....	\$1.50
Over 5 horsepower, each additional 1 horsepower or fraction thereof	\$.50

(Ord. of 2-7-67; Ord. of 12-3-77; Ord. of 1-22-91)

Sec. 11-10-1. Additional charge for belated permits.

When an electrical permit is not applied for within two (2) business days after the work has been started, the fee for such a belated permit shall be double the amount of the fee as per schedule, subject to a maximum of fifty dollars (\$50.00) as to such additional amount. Said additional amount shall be deposited with the City Treasurer and shall not be part of the inspector's compensation. (Ord. of 12-27-73)

Editor's note – Ord. of 12-27-73 amended Code by adding Sec. 8-16, which was renumbered as Sec. 11-10.1 by the editors for purposes of classification.

Sec. 11-11. Authority of inspectors to inspect, institute enforcement proceedings.

The electrical inspector and the building inspector shall have the authority to make such inspections of all buildings and electrical installations therein within the City as they may deem necessary to see that the provisions of this chapter and the National Electrical code are strictly enforced, and they shall have the authority to pre institute any proceedings which may be necessary for enforcing or preventing violations of the provisions of this chapter and the national Electrical Code. (1942 Rev. Code, Ch. XXXIII-B, Sec. 4; Ord. of 4-02-63)

Sec. 11-12. Approval required before concealing wiring.

No person shall cover or conceal or cause to be so covered or concealed any wiring for which a permit has been issued or is required before such wiring has been inspected and approved without having officially notified the electrical inspector at least forty-eight (48) hours prior to such covering or concealment. (1942 Rev. Code, Ch. XXXIII-B, Sec. 4; Ord. of 4-02-63)

Sec. 11-13. Inspector may render systems completed without permit inoperative.

When any electrical work or wiring is found to have been installed without a proper permit having been secured, or not be in accordance with the provisions of this chapter, the electrical inspector, if he deems such work or wiring to be a hazard to the safety of persons or property, is hereby authorized and empowered to remove the fuses, cut the wires or otherwise render the system inoperative until such permit has been secured and the work of wiring re-inspected and approved. (1942 Rev. Code, Ch. XXXIII-B, Sec. 4; Ord. of 4-02-63)

Sec. 11-14. Classification of outlets.

For fee purposes, outlets will be classed as lights, lighting and small appliance receptacles, plugs and lighting switches. (Ord. of 2-07-67)

Sec. 11-15. Electrical inspector to make quarterly report.

The electrical inspector shall make a quarterly report of his activities to the council. (Ord. of 2-07-67)

Chapter 12
FARMER'S MARKET²⁴

Sec. 12-1. Market established; location.

There is hereby established a Farmer's Market which is to be located along the southerly side of downtown parking lots A and B fronting on Wayside Drive and extending easterly from Mechanic Street about four hundred fifty (450) feet to the parking lot access road off Wayside Drive. It shall consist of forty-three (43) spaces to be called "stalls" which are to be consecutively numbered from said access road westerly to Mechanic Street. (Ord. of 3-20-78, Sec. 1)

Sec. 12-2. Operation; regulations.

The operation of said Farmer's Market shall be on Thursday and Friday of each week from April first, or three (3) days before Easter Sunday if sooner, to November thirtieth of each year between the hours of 6:00 a.m. and 6:00 p.m. for the sale of "farm products" in accordance with the following regulations:

- (a) **Permit; fee.** Any person who desires to sell farm products in said Farmer's Market shall first obtain a permit from the City Clerk and pay an annual fee of fifteen dollars (\$15.00) per stall. All applicants for said permits must file a certificate with the City Clerk that he or she is engaged in the business of raising farm products and will abide by the regulations for the operation of the Farmer's Market.
- (b) **Saleable Items.** The items to be sold at the Farmer's Market shall be limited to "farm products" which shall consist of fruits, vegetables, seedlings, plants, cut flowers, eggs and apple cider and no other items.
- (c) **Operation of stall.** The holder of a permit shall retain and operate the same numbered stall or stalls assigned to him throughout the year for which the permit was issued and said permits shall not be transferable. He or she must operate said stall or stalls in accordance with all city and state health laws and regulations, and clean up the immediate area after the close of each day's business. The adjoining sidewalk and esplanade between the sidewalk and Wayside Drive must be kept free and clear at all times and not be used for display or sale purposes.
- (d) **Use of stall necessary.** The failure of any permit holder to use the assigned stallspace for the sale of farm products for a period of four (4) weeks per year shall be cause for the revocation of said permit and all such spaces shall be operated at the risk of the holder of the city permit without any liability on behalf of the city.
- (e) **Suspension, revocation of permit; appeal.** The permit thus issued to any person may be suspended or revoked by the City Clerk when, in his judgment, the person holding same has failed to comply with these regulations or has violated any city or state laws in the operation of his assigned stall space, subject to the right of appeal to the Municipal Officers. (Ord. of 3-20-78, Sec. 2)

²⁴ **Editor's note** – An ordinance adopted March 20, 1978, was non-amendatory of the Code; hence, inclusion of Section 1 and 2 of said Ordinance as Ch. 12 is at the discretion of the editor.

Chapter 13
FIRE PROTECTION AND PREVENTION²⁵

- Art. I. In General, Secs. 13-1 – 13-30
- Art. II. Companies, Secs. 13-31 – 13-52
- Art. III. Fire alarm System, Secs. 13-53 – 13-71
- Art. IV. Pensions, Secs. 13-72 – 13-84
- Art. V. Oil Burner Installations, Secs. 13-85 – 13-94
- Art. VI. Fire Prevention, Secs. 13-95 – 13-97
- Art. VII. Self-Service Gas Stations, Secs. 13-98 – 13-109
- Art. VIII. Solid Fuel Appliances, Secs. 13-110 – 13-119
- Art. IX. Sprinkler Systems, Secs. 13-120 – 13-124

ARTICLE I. IN GENERAL

Sec. 13-1. Fire Department established.

In accordance with the provisions of Section 19 of the Charter, a Fire Department is hereby established in the City to be known as the Westbrook Fire Department. (1942 Rev. Code, Ch. XV, Sec.1)

Sec. 13-2. Composition of Fire Department; appointments to Board of Engineers.

- (a) The Fire Department of the City shall consist of a permanent chief engineer, two (2) assistant engineers to be known as deputy chiefs, and as many firemen as the Council shall from time to time deem necessary.
- (b) The two (2) assistant engineers mentioned in subsection (a) shall be appointed by the Mayor to serve for three-year terms on the Board of Engineers, which shall consist of the Chief and the two (2) assistant engineers and they shall receive certificates of their appointments. Such appointments shall be for staggered terms and except to fill a vacancy, no more than one appointment shall be made in any one year. However, upon the adoption of this section, the appointment of the first engineer shall be for three (3) years and the appointment of the second engineer shall be for two (2) years, with all subsequent appointments, except to fill a vacancy, to be for full three-year terms. (1942 Rev. Code, Ch. XV, Sec. 2; Ord. of 11-07-67; Ord. of 1-15-79)

²⁵ **Charter reference** – Municipal fire department, Sec. 19.

Cross references – Police and Fire Department personnel, Sec. 2-214 et seq.; buildings, Ch. 6; fire limits, Sec. 6-2.1(I); electricity, Ch. 11; housing, Ch. 17; mobile homes and mobile home parks, Ch. 21; installation, maintenance, etc., of lines for gas and other flammable substances, Sec. 29-113.1; subdivisions, Ch. 30; duty of drivers upon approach of authorized emergency vehicles, Sec. 31-66; following, parking near fire apparatus, Sec. 31-67; driving over fire hose, Sec. 31-68; weapon and explosives, Ch. 34; zoning, Part III.

State law reference – Fire protection and prevention, M.R.S.A. Sec. 2301-2543.

Sec. 13-3. Board of Engineers to organize; quorum; election of officers; establish rules.

- (a) The Assistant Engineers appointed by the Mayor to the Board of Engineers shall, after being duly qualified, meet and organize with the Chief Engineer.
- (b) A majority of the Board shall constitute a quorum.
- (c) In the absence of the Chief Engineer, the Engineer next in rank shall be presiding officer.
- (d) The Board may appoint a secretary and other officers, and may make such rules and regulations for their own government as they deem expedient, subject however to the approval of the Council. (1942 Rev. Code, Ch. XV, Sec. 3)

Sec. 13-4. Board's authority to make regulations governing department, extinguishing fires.

The Board of Engineers may make such rules and regulations for the government of the Fire Department and for the extinguishing of fires as they may from time to time deem expedient, the same shall not be repugnant to the laws of the State and shall be subject to the approval of the Council. (1942 Rev. code, Ch. SC, Sec. 4)

Sec. 13-5. Board to supervise, control department's equipment, officers of companies, persons at fires.

The Board of Engineers shall at all times have the superintendence and control of all buildings, furniture and apparatus used for the purpose of the Fire Department; over the officers and members of the several companies attached to the department; and over all persons present at fires. (1942 Rev. Code, Ch. XV, Sec. 4)

Sec. 13-6. Board's suspension power; report of action to council.

- (a) A majority of the Board of Engineers shall have full power to suspend from duty any company that shall willfully neglect or refuse to perform their duty, or shall be guilty of disorderly conduct, or of disobedience of orders of either of the engineers or for the violation of any of the rules and regulations of the Fire Department.
- (b) They shall also have full power to suspend, for sufficient cause, any officer or member of the department; and when such company officer or member shall have been suspended, the facts in the case shall be immediately reported to the Council for final action. (1942 Rev. Code, Ch. XV, Sec. 7)

Sec. 13-7. Board's authority to order hazards removed; removal by city; penalty.

- (a) It shall be the duty of the Board of Engineers, at such times as they may deem expedient, to examine or cause to be examined such premises where fire is at any time used, and where danger is anticipated; to examine into all places where shavings, or other combustible materials or ashes may be collected or deposited; and to direct such alterations, repairs or removal to be made in such cases as may be

required, whenever in the opinion of the Board they may be considered dangerous to the security of any portion of the city from fire.

- (b) In the case of the neglect or refusal of the owner or occupant of such building, to make or commence to make such alterations, repairs or removal within forty-eight (48) hours after notice, the Board may cause the same to be done at the expense of the owner or occupant. If such owner or occupant shall neglect or refuse to pay such expense, he shall be subject to the general penalty provisions of Section 1-8 of this Code. (1942 Rev. Code, Ch. XV, Sec. 5)

Sec. 13-8. Board to investigate fires, make reports; compensation.

The Board of Engineers shall make strict and thorough investigation into the causes of all fires, and report the results of such investigations to the Council or the Committee on Fire Department. For such services, the Board shall receive such compensation as the Council may direct. (1942 Rev. Code, Ch. XV, Sec. 5)

Sec. 13-9. Board's authority to demolish buildings; regulate work.

Whenever it shall be determined at any fire by a majority of the Board of Engineers present, one (1) of whom shall be the Chief, if present, to prevent the spread of a fire, the same may be done by their joint orders, and they shall have the sole and absolute control of tall streets, lanes, sidewalks and squares in the vicinity of such fire, and may close up such places, or exclude persons or vehicles from passage through for such length of time as may be necessary for the preservation of order and for the extinguishing of fires. (1942 Rev. Code, Ch. XV, Sec. 6)

State law reference – Municipal authority to regulate demolition of buildings, 30 M.R.S.A. Sec. 2151(4).

Sec. 13-10. Chief to direct department's activities.

The Chief Engineer of the Fire Department shall direct all proper measures for the extinguishing of fires, protection of property, preservation of order and observance of the rules and regulations of this chapter. (1942 Rev. Code, Ch. XV, Sec. 9)

Sec. 13-11. Chief to control personnel.

The Chief Engineer of the Fire Department shall have control of all the engineers and all other persons attached to the Fire Department. (1942 Rev. Code Ch. XV, Sec. 9)

Sec. 13-12. Chief to inspect department's apparatus, buildings; annual report.

It shall be the duty of the Chief Engineer of the Fire Department to examine or cause to be examined the condition of the apparatus and buildings used by the department, and of the companies attached thereto, as often as circumstances may render it expedient, or whenever directed by the Council or the Committee on Fire Department, and annually report the same to the Council. (1942 Rev. Code, Ch. XV, Sec. 9)

Sec. 13-13. Chief to care for, repair department's apparatus; committee's approval on large expenditures.

- (a) Whenever the apparatus used by the Fire Department requires repairs, the Chief Engineer, under the direction of the Committee on Fire Department, shall cause the same to be made, provided, however, that when such repairs shall total more than one hundred dollars (\$100.00), the matter shall be referred to the Committee on Fire Department who shall present to the Council an order authorizing the necessary expenditures.
- (b) The Chief Engineer of the Fire Department shall have the responsibility of the care of all hydrants belonging to the City, and such hydrants as may from time to time become the property of the City.
Such hydrants are hereby declared to be a part of the Fire Department apparatus and as such are subject to the regulations in regard to repairs found in this section, excepting that necessary packing or thawing or petty repairs of the hydrants shall be attended to without loss of time in referring the matter to the committee. (1942 Rev. Code, Ch. XV, Sec. 9)

Sec. 13-14. Fire Inspector within Fire Department; duties generally.

The office of Fire Inspector shall be established within the Fire Department.
The duties of the office shall be assigned by the Chief of the Fire Department. (Ord. of 10-07-68)

Sec. 13-15. Annual report of estimated losses.

The Chief Engineer of the Fire Department shall annually report an account of the loss by fire, as near as can be estimated, to the Council. (1942 Rev. Code, Ch. XV, Sec. 9)

Sec. 13-16. Authority to assist other municipalities in fighting fires.

The Chief Engineer of the Fire Department or his duly authorized representative, upon request for aid from a duly authorized representative of a municipal or incorporated volunteer fire department of any other municipality within the State, is hereby authorized to send to such other municipal or incorporated volunteer fire department such equipment or personnel belonging to the fire department of the city as he shall deem feasible for the purpose of rendering aid in extinguishing a fire within such other municipality. (1942 Rev. Code, Ch. XV, Sec. 28; Ord. of 11-19-63)

State law reference – For similar provisions, see 30 M.R.S.A. Sec. 2152.)

Sec. 13-17. Privileges and immunities of assisting firemen.

In the event that the Fire Department of Westbrook shall request and receive aid as provided in the preceding section from a municipal or incorporated fire department of the aiding municipality shall have the same privileges and immunities as if acting in their own municipality.

When the members of the Fire Department of Westbrook render such aid to another municipality, they shall have the same privileges and immunities as if acting in Westbrook. (1942 Rev. Code, Ch. XV, Sec. 28; Ord. of 11-19-63)

Sec. 13-18. Authority to contract for mutual assistance.

The Mayor, with the approval of the Council is hereby authorized to execute an agreement for and on behalf of the City with any other municipality enacting a similar ordinance agreeing to provide such aid upon request to a municipal or incorporatee volunteer fire department of such other municipality. (1942 Rev. Code, Ch. XV, Sec. 28; Ord. of 11-19-63)

Sec. 13-19. Restrictions on use of containers as incinerators.

No one will use as an incinerator any enclosure or container unless such container is covered at all times with a wire mesh of no greater than one-half (1/2) inch openings or with a metal cover and have a clearance from all buildings and property of at least ten (10) feet. (Ord. of 7-07-59)

Sec. 13-20. Giving of false alarms prohibited.

No person shall willfully or maliciously give or cause to be given a false alarm of fire by outcry or by striking an alarm at a box of the fire telegraph system. (1942 Rev. Code, Ch. XV, Sec. 26)

State law reference – For similar provisions, see 17 M.R.S.A. Sec. 3958.

Secs. 13-21 – 13-30. Reserved.

ARTICLE II. COMPANIES

Sec. 13-31. Council's authority to form.

As many engine, hose and hook and ladder companies shall from time to time be formed as the Council shall deem expedient. (1942 Rev. Code, Ch. XV, Sec. 10)

Sec. 13-32. Composition.

Companies of the Fire Department shall consist of a captain, first lieutenant, second lieutenant, third lieutenant and as many members as the Board of Engineers, with the approval of the Council, as shall be deemed sufficient. (1942 Rev. Code, Ch. XV, Sec. 8; Ord. of 2-07-77; Ord. of 12-19-83)

Sec. 13-33. Selection of members.

The selection of members for new companies shall be made by the Board of Engineers, subject to the approval of the Council. (1942 Rev. Code, Ch. XV, Sec. 10)

Sec. 13-34. Members' age regulated.

- (a) The age limits of members of companies of the Fire Department shall be eighteen (18) to sixty-five (65) years.
- (b) New members shall be accepted up to the age of forty (40) years. (1942 Rev. Code, Ch. XV, Sec. 8; Ord. of 5-01-72)

Sec. 13-35. Authority to fill vacancies.

Whenever a vacancy occurs in any company of the Fire Department, if for any reason the company fails to elect a suitable person for the place at the first regular monthly meeting following the day on which the vacancy occurs, the Board of Engineers, by a majority vote, may fill such vacancy, subject to the approval of the Committee on Fire Department. (1942 Rev. Code, Ch. XV, Sec. 7)

Sec. 13-36. Election of officers; approvals required.

The officers of companies, as enumerated in this article, shall be elected by the members of the several companies at their first meeting of the calendar year and their names shall be sent to the Board of Engineers. If approved, the list shall be sent to the Council by the Board for their further approval, and if approved by the Council, each officer so approved shall receive a certificate of appointment, signed by the Mayor and City Clerk, and shall hold office until removed or until another is elected in his place, but, if rejected by the board, other persons shall be elected as aforesaid. (1942 Rev. Code, Ch. XV, Sec. 11)

Sec. 13-37. Authority to establish regulations; Council's approval required.

The several companies of the Fire Department may make rules and regulations for the internal government of their companies, subject to the approval of the Board of Engineers. (1942 Rev. Code, Ch. XV, Sec. 11)

Sec. 13-38. Account of property and records of proceedings, service of members.

- (a) The Captains of the companies of the Fire Department shall keep or cause to be kept by the clerks of their respective companies, an account of all the city property entrusted to their care, and fair records of the proceedings of their companies in books provided for that purpose by the City, which record or roll books are always to be subject to the orders of the engineers.
- (b) Each Captain shall also keep or cause to be kept an accurate account of the term of service of each member of his company. (1942 Rev. Code, Ch. XV, Sec. 13)

Sec. 13-39. Monthly, special meetings.

- (a) One (1) evening in each month the companies shall meet for the transaction of business, the date to be approved by the board of engineers.

- (b) Whenever the Chief Engineer of the Fire Department or the Board of Engineers shall consider it necessary, the companies shall meet for the purpose of inspection and drill with their respective apparatus. (1942 Rev. Code, Ch. XV, Sec. 12)

Sec. 13-40. Clerk to report new officers, return a membership list.

It shall be the duty of the clerk of each company of the Fire Department to report to the Board of Engineers immediately after the annual meeting the names of the newly elected officers; also to return to the Board of Engineers a true and accurate list of the members of their respective companies. (1942 Rev. Code, Ch. XV, Sec. 14)

Sec. 13-41. Clerk's monthly report of membership; pledge of new members.

The clerks of the companies of the Fire Department shall also, within seven (7) days after their monthly meeting, send to the board of engineers the name of every person admitted to their respective companies at said meetings, and these person, if approved, shall sign the following statement:

"The undersigned, having been appointed members of the Westbrook Fire Department, hereby signify our agreement to abide by all the ordinances and rules and regulations of the City Council and Board of Engineers relating thereto."

Any officer or member who shall neglect or refuse to sign the same shall not be considered a member of this department, nor entitled to any compensation whatever. (1942 Rev. Code, Ch. XV, Sec. 14)

Sec. 13-42. Compensation.

Companies of the Fire Department shall receive such compensation for their services, as the Council may from time to time deem necessary, to be paid to the officers entitled by the company bylaws to receive it. (1942 Rev. Code, Ch. XV, Sec. 14)

Sec. 13-43. – 13-52. Reserved.

ARTICLE III. FIRE ALARM SYSTEM

Sec. 13-53. Superintendent of fire alarm system; duties generally.

The Chief Engineer of the Fire Department shall be the ex-officio superintendent of fire alarm telegraph, and shall have charge of all the electrical apparatus and wires belonging to and being a part of the fire alarm telegraph system, and, under the direction of the Mayor, shall superintend all additions, improvements and changes made, and shall make all necessary repairs in order that the same may at all times be in efficient working order. (1942 Rev. Code, Ch. XV, Sec. 17)

Sec. 13-54. Superintendent to inspect wires affecting system.

It shall be the duty of the Superintendent to inform himself thoroughly in regard to the location of all telegraph, telephone or other electrical lines within the City inasmuch as they may or do, in any way, affect the proper and efficient working or the safety of the fire alarm apparatus, promptly reporting to the Mayor anything he considers dangerous, also any violation of statute laws or city ordinances. (1942 Rev. Code, Ch. XV, Sec. 18)

Sec. 13-55. Superintendent to keep inventory, accounts of transactions; annual report.

The superintendent of fire alarm telegraph shall keep an inventory of all property in such system, its estimated value, an account of his transactions and report the same annually to the Council. (1942 Rev. Code, Ch. XV, Sec. 18)

Sec. 13-56. Superintendent's authority to direct current shut off; penalty.

The superintendent of fire alarm telegraph shall have authority, whenever in his opinion the public safety requires it, or when ordered by the Mayor, to direct any person using or operating any such wires as described in section 13-54 to shut off the current therefrom for such a period of time as he or the Mayor shall deem necessary, and in case of fire shall have authority to have the current shut off from such wires as he knows or believes are dangerous to life or property; and any such person who shall refuse to shut off such current in accordance with the order of either the superintendent or the Chief Engineer, shall be subject to the penalty provisions of section 1-8 of this code. (1942 Rev. Code, Ch. XV, Sec. 19)

Sec. 13-57. Unsafe conditions to be remedied; proximity of wire poles to hydrants.

Every person owning, leasing or operating wires as described in section 13-54 shall, within forty-eight (48) hours after notice served by the Chief Engineer of the Fire Department, make such substitution or repairs of the posts, supports, crossarms or stays for safe carrying of such wires as may be required by the Chief. In no case shall a post or pole be erected within ten (10) feet of a hydrant. (1942 Re. Code, Ch., XV, Sec. 20)

Sec. 13-58. Use of wires creates no permanent rights; Chief's authority to move, cut wires.

All wires used for the purposes described in this article shall be subject to the following conditions:

That no permanent rights shall be obtained in the streets or public grounds by reason of their use as described in this article, and that such wires shall be subject to change of location or removed when deemed necessary for the public interests on order of the Chief Engineer of the Fire Department, and in case of fire, if necessary, such wires may be cut or removed by his order without any claims upon the City therefor. (1942 Re. Code, Ch. XV, Sec. 21)

Sec. 13-59. City's exclusive use of brackets, etc.

The City shall have the exclusive use of a bracket, crossarm or pin bracket on all poles of any telegraph or telephone company and of any electric light or electric railroad company where practicable, located in or upon any public highway in the City, or so much of said bracket, crossarm, or pin bracket as may be required for City purposes. (1942 RE. Code, Ch. XV, Sec. 22)

Sec. 13-60. Erection of fixtures as agreement to abide by regulations.

The erection by any person of any wire, pole, or other fixture for the purposes described in this article in the City shall be held to be an agreement on the part of such person to all the requirements, rules and conditions contained in this article. (1942 Rev. Code, Ch. XV, Sec. 23)

Sec. 13-61. Interference with wires used by City.

No person shall remove, change the location of or interfere with any wire that is or may be used by the City without the permission of the Chief Engineer of the Fire Department. (1942 Rev. Code, Ch. XV, Sec. 24)

Sec. 13-62. False alarms.

For the third and successive Fire Department response to a false alarm or false activation during a calendar year, the owner of a residence shall pay a penalty of ten dollars (\$10.00) for each occurrence: Each business or firm shall pay a penalty of twenty-five dollars (\$25.00). False alarms are those activated by malicious intent or by alarm detector/panel malfunction. (Ord. of 4-07-86)

Editor's note – An ordinance of December 1, 1986, added provisions numbered Sec. 13-62 to Ch. 13. Inasmuch as there existed a Sec. 13-62, the substantive provisions of the ordinance were re-designated as Sec. 13-63 at the discretion of the editor.

Sec. 13-64. Connection of fire alarm reporting equipment.

When City ordinance, the National Fire Prevention Code, or other regulation requires that a building or structure be equipped with a fire alarm, such system shall include approved supervisory equipment, which shall transmit an alarm to an approved receiver. Such supervision shall be by direct connection to the City's municipal fire alarm system, through an approved master box connection, or by direct connection to the City's public safety dispatch center, by means of a remote signaling system meeting N.F.P.A. 72C requirements, or by connection to a private alarm station, that has been approved as a message monitoring service by Underwriters' laboratories, Inc. or Factory Mutual Insurance Company. (Ord. of 3-2-98)

Sec. 13-65. Connection and maintenance fees.

Where fire alarm supervision is by direct connection to the City's dispatch center, the following fees shall apply to each individual system connected:

- (1) New connection fee\$100.00
- (2) Annual maintenance fee\$150.00
- (3) Reconnection fee \$75.00

First-time payments of the annual maintenance fee shall be prorated over the number of months remaining between the date of payment and the following June 30th, provided, however, that in no case shall the fee be reduced to less than half. The annual maintenance fee shall thereafter be due and payable in full on July 1st. If payment is not made within 30 days thereafter, the alarm user shall be notified in writing by the Fire Chief of the impending disconnection of the alarm system, which shall be disconnected as soon thereafter as practicable. Any alarm system that has been disconnected shall not be reconnected without payment of the annual maintenance fee and a reconnection fee; except that if reconnection is not made within 30 days after disconnection, the fee for a new connection shall be charged. (Ord. of 3-3-98)

Sec. 13-66. Fire alarm modification.

No fire alarm system, once installed and operational, shall be modified or extended without the prior approval of the Fire Department. Neither shall such a system be removed, rendered inoperable, disconnected from the supervisory system, interrupted or tested in any manner, without the prior knowledge of the Fire Department. (Ord. of 3-2-98)

Sec. 13-67. Rules.

The Fire Chief is authorized to promulgate all reasonable rules, procedures, and documentation, not inconsistent with this article, to carry out the purposes and provisions thereof. (Ord. of 3-2-98)

Sec. 13-68 – 13-71. Reserved.

ARTICLE IV. PENSIONS²⁶

Sec. 13-72. Age, years of service required for eligibility.

Firemen shall be eligible for pension upon reaching the age of sixty (60) years and having served a minimum of twenty-five (25) years, fifteen (15) of which must be as a permanent man. (1942 Rev. Code, Ch. XV-A, Sec. 1)

Sec. 13-73. Permanent men receive retirement pay.

²⁶ **State law reference** – State retirement system, 5 M.R.S.A. Sec. 1001 et.

Permanent men, on being retired on pension by the Board of Engineers of the Fire Department, shall receive retirement pay under the Maine State Retirement Plan. (1942 Rev. Code, Ch. XV-A, Sec. 2; Ord. of 11-21-61)

Sec. 13-74 – 13-84. Reserved.

State law reference – State retirement system, 5 M.R.S.A. Sec. 1001 et.

ARTICLE V. OIL BURNER INSTALLATIONS²⁷

Sec. 13-85. Applicability of regulations.

No certificate shall be required for the maintenance or use of any oil burning equipment or fuel storage tanks where such equipment or tank was installed prior to June 28, 1965. All such equipment and tanks shall conform to the standards set out in this article. (1942 Rev. Code, Ch. XV-B, 4; Ord. of 6-28-65)

Sec. 13-86. Standards generally.

No oil burning equipment and no fuel storage tank to be used in connection therewith shall be installed, maintained or used in the City unless it shall conform to the standards established by the Oil Burner Men's Licensing Board, pursuant to the provisions of the State statutes, and with the standards herein prescribed, whichever shall be higher. No such equipment or storage tank shall be installed, maintained or used which shall be unsafe or which shall endanger life or property. (1942 Rev. Code, Ch. XV-B, Sec. 1; Ord. of 6-28-65)

Sec. 13-87. Application required; contents; fee.

No person shall install any oil burning equipment or fuel storage tank to be used in connection therewith without an application for a certificate therefor having first been made to the chief of the Fire Department. Such application shall describe the installation to be made, the premises upon which it is to be made, the name of the person making such installation, whether or not such installer is licensed by the Oil Burner Men's Licensing Board, and such certificate shall be in writing, signed by the owner of the premises upon which such equipment or tank is to be installed or by the person who shall make such installation. The fee for such certificate shall be twenty dollars (\$20.00), which fee shall cover the cost of the inspection hereinafter required. (1942 Rev. Code, Ch. XV-B, Sec. 2; Ord. of 6-28-65; Ord. of 7-6-82; Ord. of 3-3-86; Ord. of 1-22-91)

Sec. 13-88. Chief to inspect, issue certificate.

²⁷ **State law reference** - Regulations concerning oil burner men, 32 M.R.S.A. Secs. 2301-2306, 2351-2356, 2401-2404.

After oil burning equipment or fuel storage tanks have been installed, and within forty-eight (48) hours after notice therefor from the applicant for the certificate, the Chief of the Fire Department or a Fire Inspector shall inspect the same and the Chief shall issue such certificate upon being satisfied that such equipment and tank and the installation thereof complies with the requirements of this article. (1942 Rev. Code, Ch. XV-B, Sec. 3; Ord. of 6-28-65)

Sec. 13-89. Use forbidden without certificate; failure to inspect constitutes certification.

No person shall use any oil burning equipment or fuel storage tanks used in connection therewith, or maintain the same for more than four (4) days after the installation of the same shall have been completed, unless a certificate for such equipment or tank shall be in effect.

Failure to inspect equipment within the specified time shall constitute approval. (1942 Rev. Code, Sec. XV-B, Sec. 3; Ord. of 6-28-65)

Sec. 18-90. Notice to installer to comply with standards.

If the equipment or tank regulated by this article should not comply with the standards set out in Section 13-86 hereof, the Chief of the Fire Department should notify the installer and state where the installation does not meet the specifications of the standards.

The installer shall have seven (7) days after the date of notification to comply with the standards set out in Section 9-86 hereof. If, at the end of the specified time limit, the Fire Chief shall determine that the installation is still in violation of the standards as set out in Section 9-86, he shall give written notice to the Oil Burner Men's Licensing Board that such equipment or tank does not conform to such standards. (1942 Rev. Code, Ch. XV-B, Sec. 6; Ord. of 6-28-65)

Sec. 13-91. Flashpoint for equipment.

No person shall use oil in any oil burning equipment in the City unless its flashpoint is not less than one hundred degrees (100) Fahrenheit, closed cup test. (1942 Rev. Code, Ch. XV-B, Sec. 6; Ord. of 6-28-65)

Sec. 13-92. Valve stems required in vertical position.

The thermal fire valve stems on oil burning equipment must be in a vertical position. (1942 Rev. Code, Ch. XV-B, Sec. 7; Ord. of 6-28-65)

Sec. 13-93. Proximity of thermal switch to blast tube.

The firomatic thermal switch on oil burning equipment shall not exceed a maximum of four (4) feet above the blast tube of the burner. (1942 Rev. Code, Ch. XV-B, Sec. 8; Ord. of 6-28-65)

Sec. 13-94. Volts for control circuits, ground conductor required.

All control circuits for oil burners and oil burner auxiliary equipment shall be one hundred twenty (120) volts maximum with one grounded conductor. (1942 Rev. Code, Ch. XV-B, Sec. 9; Ord. of 6-28-65)

ARTICLE VI. FIRE PREVENTION²⁸

Sec. 13-95. National Fire Codes adopted as Fire Prevention Code.

For the purpose of prescribing rules and regulations for fire prevention and conditions hazardous to life and property from fire or explosions, there is hereby adopted as a fire prevention code the national Fire Codes, consisting of **forty-three (43) volumes**, as listed below, published by the National Fire Protection Association. Copies of such code have been and are now on file in the Office of the City Clerk. All the provisions thereof, excepting only the penalty provisions therein, are hereby adopted and incorporated by reference as fully as if set forth at length herein and shall be controlling within the limits of the City. (Ord. of 11-02-99)

Code #and Edition Year Adopted: NFPA1(1997), NFPA10 (1998), NFPA 11(1998), NFPA 12 (1998), NFPA 13(1998), NFPA 13-D(1996), NFPA 13-R(1996), NFPA 14(1996), NFPA 15(1996), NFPA 17(1998), NFPA 20(1996), NFPA 22(1996), NFPA 24(1995), NFPA 25(1998), NFPA 30(1993), NFPA 31(1997), NFPA 32(1996), NFPA 34(1995), NFPA 34(1995), NFPA 37(1998), NFPA 50(1996), NFPA 50-A(1994), NFPA 50-B(1994), NFPA 51(1997), NFPA 51-A(1996), NFPA 51-B(1996), NFPA 54(1996), NFPA 58(1998), NFPA 59(1998), NFPA 70(1996), NFPA 72(1996), NFPA 88-A(1995), NFPA 88-B(1997), NFPA 90-A(1996), NFPA 90-B(1996), NFPA 96(1998), NFPA 99, NFPA 99-B(1996), NFPA 101(1997), NFPA 102(1995), NFPA 110(1996), NFPA 211(1996), NFPA 241(1996), NFPA 496(1993), NFPA 780(1997).

²⁸ **Editor's note** – Ord. of April 5, 1971 amended Ch. 13 of this Code by adding Art. VI, Secs. 13-95 – 13-97. The provisions are included herein as enacted including catchlines.

Sec. 13-95.1. Storage of gasoline and diesel fuel aboveground.

A permit shall be required from the Fire Department's Bureau of Fire Prevention for the storage aboveground of more than fifty (50) gallons of gasoline or diesel fuel. No such permit shall be issued unless the aboveground storage tank or container is located at least fifty (50) feet from any building or structure and fifty (50) feet from the adjoining property line. No permit shall be allowed for storage of more than five hundred (500) gallons of gasoline or diesel fuel at any one location. (Ord. of 3-13-72)

Sec. 13-95.2. Removal of underground fuel, chemical and hazardous substance storage tanks.

- (a) For the purpose of prescribing fire safety measures for the removal of underground fuel and hazardous substance storage tanks, there are hereby adopted the procedures for removal of underground storage tanks, as recommended by the AIA Fire Prevention Code, 1970 edition; by the American Petroleum Institute, being particularly A.P.I. Bulletin 1604, dated March 1981; and Maine D.E.P. Interim Guidelines, issued July 1986, which are incorporated as if set forth at length herein.
- (b) No underground storage tank shall be junked, cut up or dismantled within the City limits unless the prior written approval of the Fire Chief is obtained. (Ord. of 2-02-87)

Editor's Note – An ordinance of February 2, 1987, amended Ch. 13 by adding thereto a new Sec. 13-25.2. For purposes of classification, the editor has re-designated the new provisions as Sec. 13-95.2.

Cross reference – Hazardous waste control, Part III, Sec. XXVI.

Sec. 13-95.3. Open burning.

- (a) Written permission required. No person, firm or corporation shall kindle, maintain or assist in maintaining any outdoor fire within the City without obtaining written permission from the Fire Chief. Such burning shall be done under such property safeguards as the Fire Chief may direct, taking into consideration such factors as time, place, and weather conditions.
- (b) Conditions for granting permission. Permission shall be conditioned on one's keeping sufficient control of the fire, being responsible for all damages therefrom, and extinguishing all embers upon completion.
- (c) Exceptions. Residential use of outdoor grills and fireplaces for recreational purposes such as preparing food is permissible without permit provided that no nuisance is created thereby. (Ord. of 4-19-88)

Editor's note – An ordinance of April 19, 1988, amended this Code by adding to Ch. 13 a Sec. 13-95.2. Inasmuch as there exist provisions designated as Sec. 13-95.2, the editor has renumbered the provisions of April 19, 1998, as Sec. 13-95.3.

State law references – Open burning, 38 M.R.S.A. Sec. 599, et seq.; out-of-door fires, 12 M.R.S.A. Sec. 9321, et seq.

Sec. 13-95.4 deleted by Ord. of November 2, 1999.

Sec. 13-96. Bureau of Fire Prevention

The Fire Prevention Code and the National Fire Codes shall be enforced by the Bureau of Fire Prevention in the Fire Department of the City of Westbrook, which is hereby established and which shall be operated under the supervision of the Chief of the Fire Department. The Chief of the Fire Department may detail such members of the Fire Department as inspectors as shall from time to time be necessary for the enforcement of said codes. (Ord. of 4-05-71; Ord. of 2-28-75)

Sec. 13-97. Penalty for violating codes.

Any person, being the owner or tenant or having control of any building or structure or part thereof which violates any of the provisions of the said Fire Prevention Code and the National Fire Codes or who fails to conform to any of the provisions thereof, after having received a ten-day notice of such violation, shall be subject to the penalty provisions of Section 1-8 of the Code. Each and every day such a violation continues after such ten-day notice period shall constitute a separate offense. (Ord. of 4-05-71; Ord. of 2-18-75)

ARTICLE VII. SELF-STORAGE GAS STATIONS²⁹

Sec. 13-98. “Self-service gas station” defined.

“Self-service gas station” shall mean a parcel of property where flammable and combustible liquids used as motor fuels are stored and subsequently dispensed from approved dispensing equipment such as, but not limited to, coin-operated, card-operated and remote controlled pumps into the fuel tanks of motor vehicles by persons other than the service station attendant. (Ord. of 12-11-72)

Sec. 13-99. Attendant to be on duty; general functions, responsibilities and duties of attendant.

- (a) All self-service gas stations shall have at least one attendant on duty while the station is open to the public. The attendant’s primary function shall be to supervise, observe, and control the dispensing of the motor fuel while same is actually being dispense.
- (b) It shall be the responsibility of the attendant to:
 - (1) prevent the dispensing of such motor fuel into portable containers which do not comply with Section 13-100;
 - (2) control sources of ignition;
 - (3) immediately handle accidental fuel spills, and
 - (4) immediately use fire extinguishers in case of a fire.

²⁹ **Editor’s note** – Ordinance of December 11, 1972, amended this Code by adding Art. VII, Secs. 13-98 – 13-104. In the inclusion of said ordinance, the editors revised catchlines in several instances in order to facilitate indexing, reference and use.

Cross reference – Installation and maintenance of lines for gas or other flammable substance, Sec. 29-113.1.

- (c) The attendant on duty must be at least eighteen (18) years of age and shall be mentally and physically capable of performing the functions and assuming the responsibilities prescribed in this section. (Ord. of 12-11-72)

Sec. 13-100. Dispensing in portable containers.

No delivery of any Class I or Class II liquid shall be made into portable containers unless the container is constructed of metal, has a tight closure and is fitted with a spout or so designed that the contents can be poured without spilling. (Ord. of 12-11-72)

Sec. 13-101. Emergency power cutoff.

A clearly identified and easily accessible switch(es) or circuit breaker(s) shall be provided at a location remote from dispensing devices, including remote pumping systems, to shut off the power to all dispensing devices in the event of an emergency. (Ord. of 12-11-72)

Sec. 13-102. Dispensing area.

- (a) The dispensing area shall at all times be in clear view of the attendant and the placing or allowing of any obstacle to come between the dispensing area and the attendant control area shall be prohibited. The attendant shall at all times be able to communicate with persons in the dispensing area.
- (b) All hose nozzle valves used shall be of the automatic-closing type without a latch-open device. (Ord. of 12-11-72)

Sec. 13-103. Operating instructions and warning signs.

Operating instructions shall be conspicuously posted in the dispensing area together with warning signs incorporating the following or equivalent wording:

- (a) Warning – It is unlawful and dangerous to dispense gasoline into unapproved containers;
- (b) No smoking;
- (c) Stop motor. (Ord. of 12-11-72)

Sec. 13-104. Dry chemical extinguishing systems.

An automatic-operating dry chemical extinguishing system shall be installed at all self-service gasoline dispensing stations. The installation shall meet all the requirements of the National Fire Code Standard for dry chemical extinguishing systems. All installed systems shall be approved by the Fire Chief, prior to operation of the station. (Ord. of 3-22-82)

Sec. 13-105. – 13-109. Reserved.

ARTICLE VIII. SOLID FUEL APPLIANCES

Sec. 13-110. Permit required.

No person shall install or allow to be installed any solid fuel burning appliance, including but not necessarily limited to wood and/or coal burning stoves, ranges, cook stoves, furnaces, water heating units, free-standing fireplaces or combination wood and coal and oil-fired furnaces, without first receiving a permit for such installation from the inspection department at City Hall. (Ord. of 10-01-79)

Sec. 13-111. Permit application; fee.

Application for permits, as required in Section 13-110 above, shall be made on forms provided by the Fire Department and shall be signed by the owner of the property or his authorized agent and shall be accompanied by a fee of twenty dollars (\$20.00). (Ord. of 10-01-79; Ord. of 7-06-86; Ord. of 1-22-91)

Sec. 13-112. Inspection required; certificate of compliance.

Upon completion of such installation the applicant shall notify the Fire Department which shall, within two (2) business days of such notice, cause the installation to be inspected to assure compliance with all State and local statutes, ordinances and/or regulations. No vented gas-burning appliance shall be operated until the installation has been inspected and approved in accordance with this section and a certificate of compliance executed by the Fire Department. (Ord. of 10-01-79, Ord. of 2-24-97)

Sec. 13-113. Penalties.

Any person violating the provisions of this article shall be subject to the general penalty provisions of Section 1-8 of this Code. (Ord. of 10-01-79)

Secs. 13-114. Vented Gas permit.

No person shall install or allow to be installed any vented gas fired equipment including, but not necessarily limited to, water heaters, boilers, furnaces and air conditioning equipment without first receiving a permit for such installation from the Inspection Department. (Ord. of 2-24-97)

13-115.– 13-116. Reserved

ARTICLE IX. SPRINKLER SYSTEMS³⁰

Sec. 13-117. Authority and purpose.

³⁰ Cross reference – Fire alarm system, Sec. 13-53 et seq.

This Ordinance is enacted pursuant to 30-A M.R.S.A. Sec. 3001 and 30-A M.R.S.A. Sec. 3007 (2) as a local building code and for the purpose of fulfilling the Municipality's enforcement responsibilities pursuant to Title 25, Chapter 313 of the Maine Revised Statutes. (Ord. of 1-25-99)

Sec. 13-118. Definitions.

- (a) *"An Approved Automatic Sprinkler System"* means a system installed in accordance with national Fire Protection Association Standards or a system approved by the State Fire Marshal's Office.
- (b) *"Approved Supervisory Alarm System"* means a system which complies with the requirements of the City of Westbrook Ordinance Regulating Fire Detection, Suppression and Supervisory Alarm Systems adopted July 6, 1987 as such ordinance may be amended from time to time.
- (c) *"Building"* means any structure having a roof supported by columns or walls and intended for the shelter, housing, use or enclosure of persons, animals or property. For purposes of determining when an Approved Automatic Sprinkler System is required by this Ordinance, portions of buildings separated from other portions by a fire wall shall not be considered separate buildings.
- (d) *"Unit of Occupancy"* means any interior space with defined boundaries described in a deed, lease, license or agreement in which a discrete business, commercial, office, service, professional, institutional or industrial activity is conducted and which is separated from any other business, commercial, office, service, professional, institutional or industrial activity by interior or exterior walls. (Ord. of 1-25-99)

Sec. 13-119. Applicability – New Building Construction.

Except as provided in Section 13-124, an Approved automatic Sprinkler System shall be installed in all areas of all new buildings described in whole or in part by any of the following criteria:

- (a) Three or more stories in height; or
- (b) Forty or more feet in height; or
- (c) 100,000 cubic feet or more in volume or 7,500 square feet or more in total floor area, whichever is greater; or
- (d) Multiple family or multiple occupant dwelling and/or lodging units which are attached to one another, whether vertically or horizontally, in a configuration of three or more units. Examples include, but are not limited to, multiplex housing, condominium units, garden apartments, town houses, attached dwellings, semi-detached dwellings, apartment houses, hotels, motels, boarding homes and lodging houses; or
- (e) Non-residential Units of Occupancy which are attached to one another, whether vertically or horizontally, in a configuration of three or more units. (Ord. of 1-25-99)

Sec. 13-120. Applicability – Building Additions and Requirements of Other Codes.

Except as provided in Section 13-124, an Approved Automatic Sprinkler System shall also be installed in any of the following circumstances:

- (a) When a building is enlarged, altered or renovated, an Approved Automatic Sprinkler System must be installed in the enlarged, altered or renovated portion if, as a result of the enlargement, alteration or renovations, the building as a whole will meet any of the criteria listed in Section 13-119 (a), (b), (c), or (d). When the area and/or volume of such enlarged, altered or renovated portion, together with the area and/or volume of any other enlargements, alterations or renovations occurring since the effective date of this Ordinance, exceeds 25% of the area and/or volume of the building existing on the effective date of this Ordinance, then an Approved Automatic Sprinkler System must be installed in the entire building.
- (b) When an existing building containing 3 or more units of occupancy is enlarged, altered or renovated and the enlarged, altered or renovated portion, together with the area and/or volume of any other enlargements, alterations or renovations occurring since the effective date of this Ordinance, does not exceed 25% of the area and/or volume of the building existing on the effective date of this Ordinance, then an Approved Automatic Sprinkler System is not required. When the area and/or volume of such enlarged, altered or renovated portion, together with the area and /or volume of any other enlargements, alterations or renovations occurring since the effective date of this Ordinance, exceeds 25% of the area and/or volume of the building existing on the effective date of this Ordinance, then an approved Automatic Sprinkler Sytem must be installed in the entire building.
- (c) When a new dwelling or lodging unit is created in or added to an existing building, an Approved Automatic Sprinkler System must be installed in the entire building if, as a result of the creation of the new unit, the building as a whole will meet the criteria of Section 13-119 (d).
- (d) When any other applicable ordinance, code, regulation, rule of statute so requires, an Approved Automatic Sprinkler System must be installed accordingly. (Ord. of 1-25-99)

Sec. 13-121. Additional Requirements of Sprinkler Systems.

- (a) An Approved Automatic Sprinkler System shall be equipped with an Approved Supervisory Alarm System which will transmit to an approved receiver or municipal fire alarm system. The determination of what systems and receivers are “approved” shall be made by the Westbrook Fire Department in order to ensure that only compatible systems are connected to the municipal fire alarm system. The Westbrook Fire Department will make the connection to any municipal system.
- (b) An approved Automatic Sprinkler System shall provide a 4-inch Storz Fire Department Connection.
- (c) An Approved Automatic Sprinkler System shall include an evacuation alarm which will sound and be audible throughout the entire building when the sprinkler system is activated. An internal fire alarm system may be utilized to meet this requirement, provided it is interconnected to activation of the sprinkler system.

- (d) Notwithstanding anything to the contrary in any other regulation, code or rule, an Approved Automatic Sprinkler System shall provide sprinkler heads both above and below ceilings in all building spaces, including, without limitation, closets, stairwells, storage rooms, mechanical rooms and equipment rooms. (Ord. of 1-25-99)

Sec. 13-122. Maintenance Required.

Occupied or unoccupied buildings or portions thereof having a sprinkler system in place, whether or not such system is required by this Ordinance, shall maintain all sprinklers and standpipe systems and all component parts in workable condition at all times, and it shall be unlawful for any owner or occupant or agent of either to reduce the effectiveness of the protection those systems provide. This Section does not prevent the owner or occupant of a building from temporarily reducing or discontinuing the protection when necessary in order to conduct testing, repairs, alterations or additions to the system, provided that the testing, repairs, alterations or additions are done in such a way to avoid the creation of a safety hazard, and provided that the Fire Department has been notified that the work will be done, informed of the time the system will be shut down and then notified when the system is put back on line. (Ord. of 1-25-99)

Sec. 13-123. Enforcement.

A person, firm or corporation who is the owner or has control or use of any building and who violates or permits or causes a violation of any of the provisions of this Ordinance in such building commits a civil violation punishable pursuant to 30-A M.R.S.A. 4452. The provisions of this Ordinance shall be enforced by the Westbrook Fire Chief or members of the Fire Department expressly designated by the Chief. (Ord. of 1-25-99)

Sec. 13-124. Exemption.

This Ordinance shall not apply to single-family dwellings, two-family dwellings and barns or greenhouses used for agriculture or horticulture. (Ord. of 1-25-99)

ARTICLE X. GAS-FIRED EQUIPMENT

Sec. 13-125. Permit required.

No person shall install or alter, or allow to be installed or altered, any vented gas fuel-burning appliance, including, but not limited to, natural gas or LP water heaters, furnaces, boilers, heaters, fireplaces, and air conditioning equipment, without first filing an application with the City Inspection office in writing and obtaining the required permit therefor; except that maintenance and repairs, not involving any violation of this code, shall be exempted from this provision.

Sec. 13-126. Application form, fee.

The permit application shall be submitted on a form provided by the Inspection Office, and shall be accompanied by a non-refundable application fee of \$20.00 per appliance. The application shall contain a general description of the proposed work and materials, its location, and occupancy of all parts of the building. The application shall be completed and signed by the owner or lessee of the building, or an authorized agent.

Sec. 13-127. Permit.

If the Code Officer is satisfied that the proposed work conforms to the requirements of this ordinance and all laws and regulations applicable thereto, he shall issue a permit as soon as practicable. The Code officer's signature, or that of his designee, shall be affixed to every permit issued.

A copy of the approved permit shall be kept at the installation site until the work is completed, and it shall be open to inspection of the Code Officer or other authorized representatives at all reasonable times.

The permit shall be deemed to have been abandoned if the proposed work is not commenced within six months of the date of approval and thereafter diligently pursued to completion.

Sec. 13-128. Licensed installer required.

No vented gas burning appliance shall be installed or altered by anyone other than a Maine Licensed Gas Installer. The name of such installer shall be contained in the license application required by this article.

Sec. 13-129. Inspection required.

No vented gas appliance shall be utilized until the installation or alteration has been inspected and approved by an authorized representative of the Inspection Department, and he has issued a Certificate of Compliance.

Sec. 13-130. Violations.

It shall be a civil violation for any person, firm or corporation to install or alter any vented gas-burning appliance regulated by this article, or cause the same to be done, in conflict with this ordinance. The Code Officer shall cause a notice of violation or order to be served on the person responsible for the installation or alteration, in violation of the provisions hereof, or in violation of a plan or of a detail statement made with the permit application. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

If the notice is not complied with promptly, the Code Officer shall request that the city legal department institute the appropriate proceedings, in law or in equity, to restrain, correct or abate such violation.

Such violations shall be punishable by a fine, as set forth in Section 1-8 of this Code of Ordinances, together with such injunctive relief or administrative remedies, as may be available.

Sec. 13-131. Unvented appliances.

The provisions of this ordinance also shall apply to unvented appliances that are used primarily for space heating.³¹

³¹ See N.R.P.A. 54 – unvented equipment.

Chapter 14
FOOD AND FOOD HANDLERS

Art. I. (Reserved), Secs. 14-1 – 14-15

Art. II. Victualers, Secs. 14-16 – 14-32

Div. 1. Generally, Secs. 14-16 – 14-26

Div. 2. Safety and Sanitary Requirements, Secs. 14-27 – 14-32

Article I. (Reserved)

Secs. 14-1 – 14-15. Reserved.

Article II. Victualers³²

DIVISION 1. GENERALLY

Sec. 14-16. Definitions.

The following definitions shall apply to the interpretation and the enforcement of this article:

Drive-in restaurant shall mean any premises where food or drink of any kind is served directly to, or is permitted to be consumed by patrons in or about motor vehicles parked on such premises.

Employee shall mean any person who handles food or drink during its preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in a room in which food or drink is prepared or served.

Health officer shall mean the health officer of the City or his duly appointed health inspector.

Itinerant restaurant shall mean a restaurant being operated for a temporary period in connection with a fair, carnival, circus, public exhibition or other similar gathering.

Mobile vending unit shall mean any vehicle which is used for the retail sale therefrom of any prepared food, sandwiches, drinks, ice cream or similar dairy product such as “dairy joy” and travels from place to place for the sale thereof, but not including vehicles used for the transportation of milk and dairy products or bread and bakery products for the sale or delivery to homes and business establishments.

Restaurant shall mean any restaurant, coffee shop, cafeteria, short order café, luncheonette, sandwich stand, soda fountain and all other eating or drinking establishments, including kitchens or all other places in which food or drink is prepared for sale on the premises or elsewhere.

Stationary Vending Unit shall include any vehicles from which food products are sold which is licensed for one location on private property and which conducts all of its sales within Westbrook from that one location.

Utensils shall include any kitchenware, tableware, glassware, cutlery, utensils, containers or other equipment with which food or drink comes in contact during storage, preparation or serving.

³² **State law reference** – Victualers, 30 MRSA Sec. 2701 et seq.

Vehicle shall mean not only motorized conveyances licensed as motor vehicles by the State but also any trailer, mobile stand, push cart or other equipment from which food sales are made which is capable of being and is regularly hauled, pushed or otherwise moved from place to place.

Victualer shall mean any person operating any “restaurant”, “itinerant restaurant”, “drive-in restaurant”, or “mobile vending unit” as herein defined within the City. (1942 Rev. Code, Ch. XXXII-A, Sec. 1; Ord. Of 8-07-62; Ord. of 4-06-70; Ord. Of 12-03-90)

Sec. 14-17. License required: posting.

It shall be unlawful for any person to operate any restaurant, drive-in restaurant, itinerant restaurant, mobile vending unit or stationary vending unit in the City who does not possess a valid license granted by the Municipal Officers and issued by the City Clerk subject to the approval of the inspecting officer.

Such licenses shall be posted in a conspicuous place. (1942 Rev. Code, Ch. XXXII-A, Sec. 2; Ord. Of 8-07-62)

The provisions of this chapter shall not apply to the operation by non-profit organizations of food booths, hot dog stands and similar food sales activities at special events such as, but not limited to, church fairs, sporting events, school sponsored activities, Westbrook Together Days, and similar community celebrations, fairs and parades. (Ord. Of 12-03-90)

Sec. 14-18. License dependent on compliance with regulations.

Only persons who comply with the requirements of this article shall be entitled to receive and retain such license as is required by the preceding section. (1942 Rev. Code, Ch. XXXII-A, Sec. 2; Ord. of 8-07-62)

Sec. 14-19. Securing, submitting of application for license.

Applications for a license required by this article shall be procured from the City Clerk, completed and signed by the applicant and filed with the City Clerk, and when submitted to the Municipal Officers shall bear the recommendation for approval or disapproval of the health inspector and such other departments as may be required by the Municipal Officers or other City codes. (1942 Rev. Code, Ch. XXXII-A, Sec. 2; Ord. of 8-07-62; Ord. of 10-01-90)

Sec. 14-20. Suspension, revocation of license.

A victualer’s license may be temporarily suspended by the health officer or the Fire Chief or Fire Inspector upon the failure of the licensee to comply with any of the terms of this article to the detriment of the safety, health and welfare of the public or revoked by the Municipal Officers upon a serious or repeated violation of the terms of this article after an investigation and hearing, notice of such hearing being served upon such licensee or left at the licensed premises at least three (3) days before the time set for such hearing. (1942 Rev. Code, Ch. XXXII-A, Sec. 8; Ord. of 8-07-62)

Sec. 14-21. Reinstatement of license.

A licensed victualer may, at any time after the suspension of his license, make an application in writing for the reinstatement of his license to the health officer or the Fire Chief or Fire Inspector who has suspended such licensee, representing that the condition for which the suspension was imposed has been corrected, and such officer shall within three (3) days after the receipt of the application make a reinspection of the premises. If he finds that the licensee is again complying with the terms of this article, the license shall be reinstated.

Should the officer fail to find the condition corrected to his satisfaction, he may make reinspections at such future times, as he may deem reasonable. In the event the licensee does not satisfactorily comply with the requirements of the officer after such suspension, either party may apply to the Municipal Officers for a hearing in the manner provided in this division, and the Municipal Officers shall conduct such hearing and thereafter revoke, indefinitely suspend or reinstate such license. Repeated incidents of such suspensions shall be considered a valid reason for revocation of the license. (1942 Rev. Code, Ch. XXXII-A, Sec. 9; Ord. of 8-07-62)

Secs. 14-22 – 14-26. Reserved.

DIVISION 2.
SAFETY AND SANITARY REQUIREMENTS³³

Sec. 14-27. Restaurants to comply with local State regulations.

All restaurants must comply with all the City and State ordinances, laws and regulations as to the building, exit, and plumbing codes and regulations and all licenses must fully comply with the following items as to safety and sanitation.

- (a) All rooms in which food and drink are prepared or in which utensils are washed shall be well lighted and ventilated.
- (b) All walls and ceilings shall be kept clean and in good repair.
- (c) When flies are prevalent, all openings into the outer air shall be effectively screened and doors shall be self-closing unless other effective means are provided to prevent the entrance of flies.
- (d) There shall be at least one (1) toilet on the premises of all restaurants and where alcoholic beverages are served or when eight (8) or more persons are employed at any one time there shall be provided at least one (1) toilet for each sex. All toilet rooms shall be kept in a clean condition, in good repair, well lighted and ventilated.
- (e) All equipment and utensils, including display cases, windows, counters, shelves, tables, refrigerators, stoves, hoods and sinks shall be clean and free from dust, dirt, insects and other contaminating material.

³³ **Cross reference** – Garbage and rubbish, Ch. 16.

- (f) All multi-use utensils used in the preparation or serving of food or drink shall be thoroughly cleansed and subjected to an approved bactericidal process after each usage and shall be stored in a clean, dry place protected from flies, dust and other contamination as far as practicable.
- (g) All garbage and trash shall be kept in suitable receptacles until properly disposed of.
- (h) All food and drink shall be clean, wholesome, free from spoilage and so prepared as to be safe for human consumption and shall be so stored as to be protected from dust, flies, vermin, rodents and other contamination.
- (i) Adequate and convenient hand washing facilities shall be provided including hot and cold water, soap and clean towels where any food is prepared. No employee shall resume work after using the toilet room without first washing his hands.
- (j) All employees shall wear clean outer garments and shall keep drink, utensils or equipment.
- (k) The premises shall be kept clean and free from litter and rubbish.
- (l) No person who is infected with any disease in a communicable form or is a carrier of such disease shall work in any licensed premises or be employed by any licensee. If the licensee or manager suspects that any employee is infected with any such disease or is a carrier thereof, he shall immediately notify the health officer.
- (m) When suspicion arises as to the possibility of transmission of infection from any such employee, the health officer is authorized to require any or all of the following:
 - (1) The immediate exclusion of the employee from all restaurants.
 - (2) The immediate closing of the premises concerned until, in his opinion, there is no further danger of disease outbreak.
 - (3) Adequate medical examinations of the employee and his associates with such laboratory examinations as may be required. (1942 Rev. Code, Ch. XXXII-A, Sec. 4; Ord. of 8-07-62)

Sec. 14-28. Duty to keep premises free of debris.

It shall be the duty of all victualers to keep at all times the premises whereon their place of business is located, together with the parking area and that portion of the public way adjoining such premises, free from all rubbish, waste products and debris of all kinds, including, but not being limited to, disposed food products, napkins, straws, paper cups and plates, and other waste material. (Ord. of 4-06-70)

Sec. 14-29. Duty to provide waste containers.

All victualers shall provide a sufficient number of waste containers to hold waste material until the same is removed from the premises. Such containers shall be made of metal construction, or other similar material, with self-closing reach-in type covers. (Ord. of 4-06-70)

Cross reference Specifications for rubbish and garbage containers, Secs. 16-4, 16-5.

Sec. 14-30. Noise on premises regulated.

No victualer shall operate or permit to be operated any loudspeakers, or make, or permit to be made, any other loud or excessive noise on his premises; provided, however, a victualer may use a public address system solely for the purpose of giving instructions to employees on the premises, but not so as to cause any annoyance or disturbance to persons not on said premises. (Ord. of 4-06-70)

Sec. 14-31. Inspections required; order to remove defects; suspension of license.

At least once every six (6) months, the health inspector and the Fire Chief or Fire Inspector shall inspect every restaurant located within the City. In case they discover the violation of any item of safety or sanitation, they shall notify the licensee of same and shall make a second inspection after the lapse of such time as they deem necessary for the defect to be remedied. A violation of the same item on such second inspection shall call for an immediate suspension of the license.

The person operating the restaurant shall upon the request of the Health Inspector and the Fire Chief or Fire Inspector, permit access to all parts of premises for such inspections and shall permit copying any and all records of food purchased.

State law reference – State inspections of licensed eating establishments, 22 M.R.S.A., Sec. 2486.

Sec. 14-32. Sales from mobile vending units restricted.

- a. Use of public streets and public property restricted. No mobile vending unit shall stop for sales within the public right-of-way of any public street or on any publicly owned property; except when such street is under construction, mobile vending units may stop within the public right-of-way under the following conditions:
 1. The stop shall be for the purpose of selling food products to the persons engaged in the street construction, and;
 2. The vehicle shall not be stopped for sales within three hundred fifty (350) feet of any other victualer licensed by the City of Westbrook except another mobile vending unit, and;
 3. The vehicle shall not be stopped for sales in any location so as to create traffic congestion or a hazard to vehicular or pedestrian traffic.
- b. Compliance with State Health Regulations Required. No mobile vending unit shall be licensed to operate in the City of Westbrook unless it is in full compliance with all applicable regulations as promulgated by the Maine Department of Human Services, Division of Health Engineering.

Every mobile vending unit operator licensed by the City of Westbrook shall provide to the Code Enforcement Officer copies of all state licenses, state inspection certificates and/or inspection reports within seven (7) days of receipt by the operator including any municipal license, inspection certificate or report authorized by the State as a substitute for such State license or inspection. (Ord. of 12-03-90)

State law reference – Municipal authority to regulate lunch wagons, 30 M.R.S.A. Sec. 3101.

Chapter 15
FOREST³⁴

Sec. 15-1. Title.

This chapter shall be known and may be cited as the “City Forest Ordinance of the City of Westbrook”. (Ord. of 12-03-73)

Sec. 15-2. Purpose.

[The purpose of this chapter shall be] to provide open space areas in the City of Westbrook for recreation, timber harvesting, wildlife, watershed protection, scenic beauty, and affiliated educational uses. (Ord. of 12-03-73)

Sec. 15-3. Administration generally.

The commission shall be responsible for the management of the City Forest. All work done in the City Forest shall be under the direct supervision of the City Arborist. Matters requiring expenditure of city funds shall be approved by the City Council in accordance with Section 16 of the Westbrook City Charter. (Ord. of 12-03-73)

Sec. 15-4. Right of commission to receive and administer gifts.

The [Recreation/Conservation] commission may receive gifts, including land rights and easements, in the name of the City for any of the purposes of this chapter, and administer the same, subject to the terms of the gift. (Ord. of 12-03-73)

Sec. 15-5. Procedure when purchasing land.

The [Recreation/Conservation] commission may recommend the acquisition of lands to be included in the City Forest, said acquisition to be subject to approval of a two-thirds (2/3) vote of the City Council, in accordance with Title 30 M.R.S.A. Section 3752. (Ord. of 12-03-73)

Sec. 15-6. Dedication of city-owned property.

- (a) The [Recreation/Conservation] commission shall inventory property presently held by the City of Westbrook, recommending which parcels should be dedicated solely to the purposes of this chapter. Such recommendations shall be submitted to the Planning Board for a report.

³⁴ **Editor’s note** – Ord. of December 3, 1973, amended this Code by adding Ch. 10A, Secs. 10A-1 – 10A-8, which provisions were redesignated as Ch. 15, Secs. 15-1 – 15-8, by the editors in order to conform to the numbering system used in this Code. In the codification of said ordinance, the editors revised catchlines in several instances in order to facilitate indexing, reference and use and added material in brackets for purposes of clarification.

- (b) The report of the Planning Board, together with the recommendations of the commission, will be considered by the City Council in determining which parcels of city-owned property shall be dedicated to the City Forest.
- (c) Property so dedicated shall be designated by the assessor's office and shall be listed as such on a schedule, which shall become part of this chapter.
- (d) Dedication shall be by a two-thirds (2/3) vote of the City Council. (Ord. of 12-03-73)

Sec. 15-7. Removal of land in the City Forest.

Parcels can be removed from the City Forest designation only by a two-third (2/3) favorable vote of each of the following City Boards: Recreation/Conservation Commission, Planning Board, and City Council. (Ord. of 12-03-73)

Sec. 15-8. Schedule of property dedicated to the Westbrook City Forest.

[The schedule of property dedicated to the Westbrook City Forest is on file in the Office of the City Clerk.] (Ord. of 12-03-73)

Chapter 16
GARBAGE AND RUBBISH³⁵

Art. I. In General, Secs, 16-1 – 16-29

Art. II. Demolition Debris Site, Secs. 16-30 – 16-37

Art. III. Solid Waste Flow Control, Secs. 16-38 – 16-47

ARTICLE I. IN GENERAL.

Sec. 16-1. Definitions.

For the purposes of this chapter all words, except those specifically defined in this section, shall have their normal and customary meanings and such meanings as may be in common use in the field of sanitation, refuse disposal and demolition debris site management: (Ord. of 11-02-92)

- (a) Garbage is that refuse consisting of organic materials, including decayed or spoiled food, resulting from the preparation of food.
- (b) Rubbish is that refuse consisting of non-organic waste, including such materials as paper, cardboard, and plastics, tin and glass, and exclusive of such materials as wood, bricks, stone, iron and steel.
- (c) Household garbage and rubbish is that garbage and rubbish generated in residential premises.

- (d) Commercial garbage and rubbish is that garbage and rubbish generated by non-residential users (i.e., businesses, offices, industries, and multi-family dwellings (10 or more units), mobile home parks, and condominium developments.

(Except for the following which are grandfathered: Town House apts., LaBella Villa, and Everett Court)

(Ord. of 11-02-92)

- (e) Commercial operator shall mean any person who picks up or hauls refuse of any kind as a business or for compensation. (Ord. of 8-20-79)

Sec. 16-2. Household garbage and rubbish collection.

The City shall establish a system of regular collection, subject to the requirements of this chapter, for all household garbage and rubbish as defined herein. The City will not collect commercial garbage and rubbish and such refuse shall be removed from the premises and disposed of at the expense of the owner or occupant of such premises. (Ord. of 8-20-79)

³⁵ **Editor's note** – An ordinance approved August 20, 1979, adopted a new Ch. 12 as herein set forth, except for penalty provisions originally numbered as Sec. 11-38, which are included herein as Sec. 16-12. Former Ch. 11 contained general provisions pertaining to garbage and rubbish, Secs. 11-1 – 11-19, and provisions pertaining to sanitary and landfills, Secs. 11-30 – 11-53, which derived from Ch. 34 of the 1942 Revised Code; an Ord. of May 16, 1961; an Ord. of November 18, 1963; an Ord. of January 31, 1967; Secs. 1 – 15 of an Ord. of July 28, 1969; an Ord. of December 16, 1974; and an Ord. of June 21, 1976.

Cross references – Garbage, rubbish defined, Sec. 17-4; garbage and rubbish relative to housing, Sec. 17-124 et seq.; depositing garbage, refuse, etc. in streets prohibited, Sec. 29-6.

State law reference – Public dumps, 30-A, M.R.S.A. Secs. 3351 – 3353.

Sec. 16-3. Occupants to provide containers.

It shall be the responsibility of the occupant of every dwelling or dwelling unit to provide and make available suitable and sufficient containers as described in this chapter to receive the accumulation of garbage, rubbish and other waste materials on the premises during the interval between collections. (Ord. of 8-20-79)

Sec. 16-4. Household garbage to be properly wrapped.

All household garbage put out for collection shall be wrapped in water-resistant material, such as plastic or properly treated paper bags. Any surgical or medical dressings put out for collection shall be wrapped in plastic bags or other moisture and odor-resistant material. The above shall be placed in containers as provided in Section 16-5. (Ord. of 8-20-79)

Sec. 16-5. Specifications for refuse containers.

Household garbage and rubbish set out for City collection shall be placed in durable water-resistant containers with durable covers of not over thirty (30) gallons' capacity. Plastic bags and residential trash compactor bags will be acceptable. No container shall be filled to a weight in excess of seventy-five (75) pounds. In no case shall the City pick up any garbage or rubbish placed in paper bags, unless such bags are themselves placed within a suitable water-resistant container as specified above. Corrugated cardboard or paperboard boxes will not be picked up unless broken down and flattened, and in no case shall they be used as refuse containers. (Ord. of 8-20-79)

Sec. 16-6. Time for setting out refuse.

Refuse containers shall not be put out for collection before sunset of the day preceding collection and no later than 7:00 a.m. on the day of collection. Collection begins at 7:00 a.m. each collection day and the City will not make return trips for refuse not put out prior to the actual pick up time. Containers must be removed from the curb within eight (8) hours after collection. (Ord. of 8-20-79)

Sec. 16-7. Collection refused.

The City may refuse to collect any refuse which has been put out for collection in a manner in which does not comply with the requirements of this chapter. The owner of such refuse has the responsibility of disposing of it in a proper manner. The City will not be responsible for picking up refuse in broken, split or water soaked containers which are not sturdy enough to hold the refuse with reasonable handling. Any refuse which has spilled from containers or which has been pulled from containers by animals will not be picked up by the City and the person placing such refuse out shall clean it up and dispose of it properly within eight (8) hours of the time of collection. (Ord. of 8-20-79)

Sec. 16-8. Leaves, grass clippings, ashes, other materials.

- (a) No leaves or grass clippings shall be put out for the regular curbside collection. No leaves or grass clippings shall be raked onto any paved street or public right-of-way. All leaves and grass clippings shall be properly disposed of in a manner authorized by the Director of public Works (i.e., composting area, or designated container).
- (b) No hot ashes shall be placed for collection. Cold ashes put out for collection must be separated from other refuse.
- (c) Cardboard boxes will be accepted if they are broken down, bundled and tied. Newspapers and magazines will be accepted if stacked in bundles and tied. Bushes and branches will be accepted if cut in lengths of four (4) feet or less, properly bundled and tied.
- (d) Glass, other than bottles, must be broken into small pieces not over three (3) inches square, and wrapped in some suitable material or placed in a suitable container so that it will not cause injury to collection personnel. (Ord. of 11-02-92)

Sec. 16-9. Containers to be properly located for collection.

Containers placed for collection shall be located as close to the curb or paved portion of the street as practicable but shall not be placed within the paved portion of any street or public right-of-way. (Ord. of 8-20-79; Ord. of 11-02-92)

Sec. 16-10. Authority of Director of Public Works.

The Director of Public Works may establish such further rules and regulations governing the collection of garbage and rubbish not inconsistent with the provisions of this chapter as he deems necessary. (Ord. of 8-20-79)

Sec. 16-11. Holidays.

If a holiday falls on the scheduled collection day for a collection zone, the refuse from that zone will be collected on the working day following that holiday. (Ord. of 8-20-79; Ord. of 3-03-80)

Editor's note – The penalty provisions included herein as Sec. 16-12 were originally enacted as Sec. 11-38 of the August 20, 1979 ordinance. For classification purposes, said provisions are included herein as Sec. 16-12 at the discretion of the editor.

Sec. 16-12. Violations; penalty.

Any person found guilty of violating any of the provisions of this chapter, in addition to being subject to the revocation of permits, shall be subject to the general penalty provisions of section 1-8 of this Code. (Ord. of 8-20-79)

Sec. 16-13 – 16-29. Reserved.

ARTICLE II. DEMOLITION DEBRIS SITE

Sec. 16-30. Applicability.

The following rules and regulations are hereby established for the use of the demolition debris site for refuse disposal to be known as Rocky Hill. (Ord. of 8-20-79; Ord. of 11-02-92)

Sec. 16-31. Director to supervise; duties of attendant.

- (a) The demolition debris site shall be under the direction and supervision of the Director of Public Works, who may establish such further rules and regulations governing the collection of garbage and rubbish not inconsistent with the provisions of this chapter as he deems necessary. (Ord. of 4-01-91)
- (b) The attendants at the demolition debris site shall designate the areas for deposit of refuse and may prohibit the deposit of refuse, which does not conform to the requirements of this chapter. They shall be subject to the direction of the Director of Public Works. The attendants shall be sworn in as constables for the purpose of enforcing the provisions of this chapter. (Ord. of 8-20-79)

Sec. 16-32. Hours of operation; holidays.

- (a) The Methodist Road site, Rocky Hill Park, shall be open to the public on those hours specified by the Mayor and as posted on the premises at his direction. Rocky Hill may be closed temporarily by the Mayor or in his absence the Director of Public Works because of adverse weather or emergency conditions.
- (b) Rocky Hill shall be closed on the following holidays: New Year's Day, Martin Luther King, Jr. Day, Washington's Birthday, Patriots' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Thanksgiving Day, Veterans' Day, Christmas, and any other holiday declared by the Mayor.
- (c) The depositing of refuse at the demolition debris site shall be limited to the hours of operation during which hours an attendant shall be present. When there is no attendant in charge, the area shall be closed with a locked chain or gate. (Ord. of 8-20-79, Ord. of 11-02-92)

Sec. 16-33. Items allowed for deposit at the demolition debris site.

- (a) The following items shall be separated and deposited in the appropriate area by the user before or upon entering the disposal area:
 - (1) Landfill Material/Demolition Debris. Cement, bricks, rocks, dirt, shingles, mattresses, couches, stuffed furniture, carpet, underlayment, sheet-rock, plaster, stumps, unburnable wood as determined by the attendant, toilets, sinks, sawdust, wood chips, and TVs.
 - (2) Burnable Material. All wood, brush, etc., with the exception of wood larger than three (3) inches in diameter or wood as determined by the attendant as unburnable.

- (3) Metals. All metals and objects of large bulk and heavy items, such as stoves, refrigerators, washing machines, etc.
- (4) Tires. Automobile tires and truck tires. (No loader tires.)
- (b) The following items will not be accepted at the Rocky Hill site:
 - (1) Cardboard, paper, plastic, and household trash, i.e. garbage and items acceptable as curbside pick-up.
 - (2) Dead animals or animal manure of any kind.
 - (3) Contents of cesspools or septic tanks.
 - (4) Explosives or other volatile materials or any chemical or waste found hazardous by any Federal or State agencies.
 - (5) Hot coals or ashes.
 - (6) Motor vehicle, trailer and construction equipment bodies.
 - (7) Any material which the attendant, because of character or quality, considers hazardous or detrimental to the efficient and sanitary operation of the area.
 - (8) Any refuse or material collected from premises outside of the City of Westbrook.
- (c) Fill materials will be accepted at the demolition debris site in any quantity not inconsistent with these rules and regulations without payment of any fee, provided there is a current need for same as determined by the Director of Public Works or his designated representative. If no need exists or loads are mixed and contain refuse as well as acceptable fill, such material shall be classified as refuse and accepted in accordance with the schedule of fees. (Ord. of 8-20-79, Ord. of 11-02-92)

Sec. 16-34. Permits; fees; revocation.

- (a) **Residential permits.** The City Clerk shall issue, upon receipt of the annual ten dollar (\$10.00) fee, five dollars (\$5.00) after July 1 for the current year, a permit for admittance to the demolition debris site to Westbrook residents. These permits shall be valid only for that vehicle, the registration numbers of which are listed on the permit, and shall be affixed to and displayed on that vehicle. No vehicle failing to display a permit shall be admitted to the demolition debris site. These permits shall be color coded so as to be easily identifiable. The fees for a residential one-day permit shall be one dollar (\$1.00) with a maximum of five consecutive days for five dollars (\$5.00). In addition to obtaining a permit, the following fees apply to residents:
 - (1) Refrigerators, air-conditioners, and humidifiers, and other appliances containing HFCs - \$15.00 each.
- (b) **Commercial Hauler Licenses.** All commercial haulers collecting refuse within Westbrook for deposit at R.W.S. or the demolition debris site shall secure an annual permit on or before January 1st of each year. The fee for commercial hauler licenses shall be one hundred dollars (\$100.00)
- (c) **Per load fees for commercial operators.** The following schedule of fees shall be charged for use of the demolition debris site. Payment shall be made with coupons purchased in advance from the City Clerk, except that persons who deposit three (3) or more loads per week may make arrangements to pay on a monthly basis. Failure

to make required payments within thirty (30) days from the date of billing will result in the suspension of all permits issued to that person until such bill is paid in full. The Director of Public Works shall be furnished with a monthly report on all accounts. No cash will be accepted by the attendants at the demolition debris site. The attendant shall determine whether the vehicle entering the demolition debris site contains a full or partial load and the fees will be adjusted accordingly.

- (1) ½, ¾ ton pickups, vans and trailers (one (1) cubic yard or less) – Fifteen dollars (\$15.00) per admittance.
- (2) Vans, trucks, trailers, 1 ton dump trucks, with capacity of three (3) or more cubic yards – Fifty dollars (\$50.00) per admittance.
- (3) 6 wheel single axle dump truck (rack body truck, over 1 ton dump truck) – One hundred fifty dollars (\$150.00) per admittance.
- (4) 10 wheel dual axle dump truck – Three hundred dollars (\$300.00) per admittance.
- (5) 20 cubic yard dumpster (capacity of twenty (20) yards or less) – Three hundred dollars (\$300.00) per admittance.
- (6) Any other dumpster, roll-off truck – fifteen dollars (\$15.00) per cubic yard of disposal material per admittance.
- (7) Tractor trailer – Six hundred twenty-five dollars (\$625.00) per admittance.

In addition to the above fee schedules, the following unit charges shall be paid prior to a requested admittance to the demolition debris site:

- (1) Auto tires – Two dollars (\$2.00) each
Truck tires – Five dollars (\$5.00) each.
Truck tires eight hundred (800) and above and loader tires – Fifteen dollars (\$15.00) each.
- (2) White goods, including stoves, water heaters, washing machines and clothes dryers – Five dollars (\$5.00) each. Refrigerators, air-conditioners, humidifiers, and other appliances containing HFCs – Fifteen (\$15.00) each.
- (3) All other metals – Fifteen dollars (\$15.00) per cubic yard.

(d) Revocation:

- (1) Residential permits shall be revoked when the holder thereof ceases to be a Westbrook resident.
- (2) The Director of Public Works may suspend or revoke the permit of any person found violating any of the provisions of this chapter after notice to that person and an opportunity to rebut the evidence of such violations.
- (3) Any person whose permit has been suspended or revoked by the Director of Public Works may, within thirty (30) days of the notice of said action, appeal in writing to the Municipal Officers who may after public hearing affirm, reverse or modify the action of the Director.

- (e) Penalty: The fine for dumping without a permit shall be five hundred dollars (\$500.00).

(Ord. of 8-20-79; Ord. of 9-24-79; Ord. of 7-06-82; Ord. of 4-16-84; Ord. of 2-03-86; Ord of 3-06-89; Ord of 1-22-91; Ord. of 4-01-91; Ord. of 4-16-91; Ord of 11-02-92)

Sec. 16-35. Refuse to be secured on transporting vehicles.

All refuse must be fastened, secured, confined, covered or loaded on transporting vehicles to prevent any portion thereof from falling to the ground prior to it being deposited where designated by the attendant at the demolition debris site. (Ord. of 8-20-79; Ord. of 11-02-92)

Sec. 16-36. Burning prohibited.

The burning of refuse or kindling of any fires in the demolition debris site is prohibited except in designated areas. (Ord. of 8-20-79; Ord, of 11-02-92)

Sec. 16-37. Children, pets to be in vehicle while at site.

No pets or children under the age of twelve (12) years shall go upon or be permitted within the demolition debris site except while in the confines of motor vehicles. (Ord. of 8-20-79; Ord. of 11-02-92)

ARTICLE III. SOLID WASTE FLOW CONTROL

Sec. 16-38. Purpose.

The purpose of this article is to protect the health, safety, and general welfare of the citizens of Westbrook; to enhance and maintain the quality of the environment; to conserve natural resources and to prevent water and air pollution; to gain management control over solid waste; and to enable the reclamation of natural resources, including energy, from solid wastes by providing for a comprehensive, rational and effective means of regulating the disposal of solid waste generated in the City. The regulations set forth herein are intended to regulate the stream of acceptable wastes with in the City and to be delivered directly or through the City's transfer station to the energy recovery facility, as defined herein. Non-acceptable wastes, as defined herein, are regulated by other provisions of the City's ordinances and shall be disposed of in accordance with them. (Ord. of 3-07-88)

Sec. 16-39. Definitions.

[The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:]

Acceptable waste. All solid wastes generated within the City of the type accepted at the Sandy Hill municipal landfill prior to the adoption of this article, including ordinary household, municipal, institutional, commercial and industrial wastes, with the following exceptions:

- (1) Demolition or construction debris, including tree stumps.
- (2) Liquid wastes or sludge, including waste oil and water treatment residues.
- (3) Hazardous, infectious, or pathological wastes generated by hospitals, health care facilities, and laboratories, as defined in the Standard Industrial Classification Manual.
- (4) Discarded “white goods”, such as refrigerators and stoves, and furniture containing metal frames and springs.
- (5) Abandoned or junked vehicles.
- (6) Wastes averaging less than four thousand (4,000) BTUs per pound.
- (7) Those wastes, which the public works authority determines are unsuitable for processing at the energy recovery facility.

Collection facility. A building, container, or designated area in which acceptable waste is deposited and temporarily stored for shipment to the energy recovery facility.

Disposal. The discharge, deposit, dumping or placing of any solid waste into or on any land.

Energy recovery facility. The facility designated herein, which processes and recovers energy and/or useful materials from acceptable waste generated within the City.

Hazardous waste. Waste with inherent properties that make it dangerous to manage by ordinary means, including, but not limited to, chemicals, explosives, pathological wastes, radioactive, toxic, or other wastes defined as hazardous by the State, by the Resource Conservation and Recovery Act of 1976, as amended, and by any other federal, state, or local law, order, or regulation promulgated with respect thereto.

Resource recovery. The recovery of materials and substances that still have useful physical or chemical properties after serving a specific purpose and which can be reused or recycled for the same or other purposes.

Solid waste. Unwanted, useless, or discarded solid materials with insufficient liquid content to be free-flowing, including rubbish, garbage, scrap materials, junk, refuse, but not including septic tank sludge. (Ord. No. 3-07-88)

The City designates RWS of Portland, Maine, as its energy recovery facility for the purposes cited in this article. (Ord. of 3-07-88, Ord. of 2-19-91)

Sec. 16-41. Regulated activity.

The accumulation, collection, transportation, and disposal of acceptable waste generated within the municipality shall be deposited at the collection facility or directly at the energy recovery facility. (Ord. of 3-07-88)

Sec. 16-42. Exempted waste.

The following categories of waste shall be exempted from regulation by this article:

- (1) Glass, metal, or other non-combustible materials, which are separated from acceptable waste by the generator as part of a recycling program.
- (2) Materials from manufacturing, processing, or packaging operations which are segregated from solid waste and salvaged for alternate use or reuse by the generator or sold to third parties.

- (3) Cardboard, paper, or other combustible materials which are separated from acceptable waste by the generator as part of a recycling program approved by the municipal officers, provided that any such recycling program shall not reduce the BTU content of acceptable waste below the level acceptable to the energy recovery facility. (Ord. of 3-07-88)

Sec. 16-43. Administration.

This article shall be administered by the Municipal Officers whose powers and duties shall include the following:

- (1) The authority to adopt reasonable rules and regulations as needed to enforce this article.
- (2) The authority to enter contracts for the use of collection and disposal facilities, subject to contractual obligations to the energy recovery facility.
- (3) The authority to review all license applications and to grant or deny approval.
- (4) The responsibility to review any alleged violation of this ordinance and to impose appropriate penalties therefor after notice and hearing, and to otherwise institute proceedings, either at law or equity, to enforce this article. (Ord. of 3-07-88)

Sec. 16-44. Licensing.

- (a) *License required; exception.* No person, firm, or corporation shall collect, store, transport, or dispose of acceptable waste generated within the City without first obtaining an annual license from the City Clerk, except for those collecting less than one ton per month of their own waste.
- (b) *Application and fee.* Any person, firm, or corporation required by this article to obtain an annual license shall make application to the City Clerk by January 1 of each year, providing the information required. The application shall be accompanied by a non-refundable license fee of one hundred dollars (\$100.00).
- (c) *Contents of application.* The license application shall contain complete and current information required, including, but no limited to, a description of the activity engaged in; the type and amount of waste handled in each service area; a description of the facility operated or used; and an equipment inventory which includes each vehicle used in the collection of solid waste. The licensee shall have a continuing responsibility to notify the City immediately of any changes to this information.
- (d) *Review of application.* Prior to the issuance or re-issuance of any license, the City Clerk shall refer the application to the Director of Public Works for his review. All licenses issued pursuant to this chapter shall be subject to his approval.
- (e) *Tipping fees.* Notwithstanding the payment of annual license fees, commercial licensees disposing of solid waste at the collection facility or the energy recovery facility, shall be subject also to payment of per load “tipping fees”. (Ord. of 3-07-88)

Sec. 16-45. Suspension or revocation of license – Causes.

Any license application may be denied, and any license issued may be suspended for thirty (30) days by the Director of Public Works or may otherwise be suspended or revoked by order of the Municipal Officers, after benefit of a full hearing, for the following causes:

- (1) Violation of this article, e.g., disposal of wastes at an unapproved facility, knowingly or carelessly disposing of unacceptable waste at the collection facility or energy recovery facility, or unauthorized disposal of wastes from another municipality into the Westbrook facility.
- (2) Violation of any provision of federal, state, or other municipal law, ordinance, or regulation relating directly to the provisions of this article.
- (3) Violation of any license condition.
- (4) Falsehoods, misrepresentations, or omissions in the license application.
- (5) Failure to make timely payment of per-load charges. (Ord. of 3-07-88)

Sec. 16-46. Same – Hearings.

Upon the denial of a license application or upon the suspension or revocation of a license, the affected licensee shall be entitled to a hearing before the Municipal Officers if a request is made within thirty (30) days of such denial, suspension, or revocation. Such hearings shall be held within thirty (30) days after receipt of the request, at which time the licensee or applicant shall have the right to be represented by counsel, to offer evidence and argument, and to cross-examine witnesses.

A final written determination shall be issued within twenty (20) days after conclusion of the hearing. The notice shall set forth the reasons for the determination. Any controversy arising out of this decision by the Municipal Officers shall be reviewable directly by Superior Court, pursuant to M.R.C.P. Rule 80B. (Ord. of 3-07-88)

Sec. 16-47. Enforcement.

- (a) *Generally.* The provisions of this article are enforceable by the Director of Public Works or his representative, the Code Enforcement Officer, and authorized law officers.
- (b) *Violation; penalties.* Any person who violates any provision of this article commits a civil infraction, and is subject to the penalty provisions of section 1-8 of the Code, together with other civil and criminal sanctions available through State and Federal Law. Violators shall be liable also for the cost of any damage to disposal facilities or the cost of re-disposing of wastes.
- (c) *Conflicting provisions.* In the event this article is inconsistent with other ordinances, the provisions hereof shall apply. If any part is held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity of the remaining provisions. (Ord. of 3-07-88)

Chapter 17
HOUSING³⁶

- Art. I. In General, Secs. 17-1 – 17-20
- Art. II. Enforcement, Secs. 17-21 – 17-56
- Art. III. Maintenance, Secs. 17-57 – 17-74
- Art. IV. Space, Use and Occupancy, Secs. 17-75 – 17-89
- Art. V. Light, Ventilation, Heating and Egress, Secs. 17-90 – 17-108
- Art. VI. Insect and Rodent Control, Secs. 17-109 – 17-123
- Art. VII. Garbage and Rubbish, Secs. 17-124 – 17-140
- Art. VIII. Plumbing, Secs. 17-141 – 17-159
- Art. IX. Rooming Houses, Secs. 17-160 – 17-164

Article I. In General

Sec. 17-1. Purpose.

This chapter is one establishing the minimum standards governing the conditions and maintenance of dwellings; establishing the minimum standards governing supplied utilities and facilities and other physical things and conditions essential to make dwellings safe, sanitary, and fit for human habitation; establishing the minimum standards governing the condition of dwellings offered for rent; fixing certain responsibilities and duties of owners and occupants of dwellings; authorizing the inspection of dwellings, and condemnation of dwellings unfit for human habitation; and fixing penalties for violation. (Ord. of 7-25-68)

Sec. 17-2. Insanitary conditions found.

Dwelling structures which are so dilapidated, unsafe, dangerous, unhygienic or unsanitary, and which constitute a menace to the health and safety of the people of Westbrook, have been found in the City. (Ord. of 7-25-68)

Sec. 17-3. General penalty.

Whenever in this chapter any act is prohibited or is made or declared to be unlawful or a misdemeanor, or whenever in this chapter the doing of an act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of such provision of this chapter shall be punished by a fine of not more than one hundred dollars (\$100.00) plus costs. All fines shall be recovered on complaint to the use of the City. Each day any violation of any provision of this chapter shall continue a separate offense.

Sec. 17-4. Definitions.

³⁶ **Cross references** – Buildings, Ch. 6; fire protection and prevention, Ch. 13; subdivisions, Ch. 30; zoning, Part III.

For the purposes of this chapter, the following terms, phrases and words shall have the meanings ascribed to them in this section. Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming unit”, “premises”, are used in this chapter, they shall be construed as though they were followed by the words “or any part thereof”.

Basement shall mean that portion of a building next below the ground floor having not more than one-half (1/2) of its clear height below the adjoining grade.

Cellar shall mean that portion of a building next below the ground floor or basement having more than one-half (1/2) of its clear height below the adjoining grade.

Common staircase or passageway shall mean a passageway that serves two (2) or more dwelling units.

Dwelling shall mean any building, which is wholly or partly used or intended to be used for living or sleeping by human occupants.

Dwelling unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Extermination shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible material that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest elimination methods approved by the housing inspector.

Garbage shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Habitable room shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes excluding bathrooms, water closet compartments, laundries, pantries, game rooms, foyers or communicating corridors and permanent built-in closets and storage spaces.

Housing inspector shall mean that person legally designated by the City as the Housing Inspector.

Infestation shall mean the presence or evidence of the presence, within or around a dwelling, of any insects, rodents or other pests.

Multiple dwelling shall mean any dwelling containing more than two (2) dwelling units.

Occupant shall mean any person over one (1) year of age who is living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

Operator shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Ordinary winter conditions shall mean minus twenty degrees (20) Fahrenheit.

Owner shall mean any person whom alone, jointly or severally with others:

- (a) Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof;
- (b) Shall have charge, care or control of any dwelling or dwelling unit, as owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to the same extent as if he were the owner.

Person shall mean any individual, firm, corporation, association or partnership.

Plumbing shall mean all of the following supplies, facilities and equipment: Gas pipes, gas-burning equipment, water pipes, garbage disposal units, waste pipes, water closets,

sinks, installed clothes washing machines together with all connections to water, sewer or gas lines.

Rooming house shall mean any dwelling or part of any building containing one (1) or more rooming units in which space is let by the owner or operator to four (4) or more persons who are not husband or wife, son or daughter, mother or father or sister or brother of the owner or operator.

Rubbish shall mean combustible and noncombustible waste materials except garbage; the term shall include, but not necessarily be limited to, the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubbish, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and others.

Supplied shall mean paid for, furnished, installed or provided by or under the control of the owner or operator.

Temporary housing shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system. (Ord. of 7-25-68, Ch. I, Art. I, Secs. 1-23)

Cross reference – Garbage and rubbish defined, Sec. 16-1.

Sec. 17-5. Owners to maintain public areas of dwellings in sanitary manner.

Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof. (Ord. of 7-25-68, Ch. I, Art. IX, Sec. 1)

Sec. 17-6. Occupant's duty to maintain clean premises.

Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls. (Ord. of 7-25-68, Ch. I, Art. IX, Sec. 1)

Sec. 17-7. Owner required to provide screens.

The owner of a dwelling or dwelling unit shall be responsible for providing adequate screens, storm doors and windows wherever the same are required under the provisions of this chapter. (Ord. of 7-25-68, Ch. I, Art. IX, Sec. 2)

Sec. 17-8. Occupant's responsibility to install screens, storm doors and windows.

Every occupant of a dwelling or dwelling unit shall be responsible for hanging adequate screens, storm doors and windows whenever the same are required under the provisions of this chapter, except where the owner has agreed to supply such services. (Ord. of 7-25-68, Ch. I, Art. IX, Sec. 3)

Sec. 17-9. Owner to insulate plumbing.

It shall be the duty of the owner to provide adequate insulation or other means of protection of all plumbing within a dwelling unit so as to prevent the plumbing from freezing under ordinary winter conditions. (Ord. of 7-25-68, Ch. I, Art. IX, Sec. 4)

Sec. 17-10. Occupant's duty to maintain heat to prevent freezing of plumbing.

It shall be the duty of the occupant, when the landlord is not obliged to supply heat, to maintain adequate heat in the dwelling unit at all times to prevent the plumbing from freezing. (Ord. of 7-25-68, Ch. I, Art. IX, Sec. 5)

Secs. 17-11 – 17-20. Reserved.

ARTICLE II. ENFORCEMENT

Sec. 17-21. Office of Housing Inspector.

The Office of Housing Inspector, which is hereby established, shall be under the charge and direction of the Code Enforcement Officer, who shall perform all the duties and functions of the housing inspector as herein provided. (Ord. of 2-21-77)

Cross reference – Code enforcement officer, Secs. 2-136, 2-137

Charter reference – Council's authority to establish administrative officers and define their duties, Sec. 30.

Sec. 17-22. Enforcement.

This chapter shall be enforced by the Housing Inspector. (Ord. of 7-25-68, Ch. I, Art. II, Sec. 5)

Sec. 17-23. Housing Inspector's authority to make inspections.

The Housing Inspector is hereby authorized and directed to make inspections to determine the condition of dwellings, dwelling units, rooming houses, rooming units and premises located within the City in order that he may perform his duty of safeguarding the health and safety of the occupants of such dwellings and of the general public. (Ord. of 7-25-68, Ch. I, Art. II, Sec. 1)

Sec. 17-24. Inspector's authority to enter premises.

For the purpose of making an inspection authorized by the preceding section, the housing inspector is hereby authorized to enter, examine and survey at all reasonable times all dwelling, dwelling units, rooming houses, rooming units and premises. (Ord. of 7-25-68, Ch. I, Art. II, Sec. 2)

Sec. 17-25. Owner to give free access to inspector.

The owner or occupant of every dwelling unit or rooming unit, or the person in charge thereof, shall give the Housing Inspector free access to such dwelling, dwelling unit, rooming house or rooming unit and premises, at all reasonable times for the purpose of such inspection, examination and survey. (Ord. of 7-25-68, Ch. I, Art. II, Sec. 3)

Sec. 17-26. Free access of owner to make repairs, alterations.

Every occupant of a dwelling, dwelling unit, rooming house or rooming unit shall give the owner thereof access to any part of such dwelling, dwelling unit, rooming house, rooming unit or premises at all times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or any lawful order issued pursuant to the provisions of this chapter. (Ord. of 7-25-68, Ch. I, Art. II, Sec. 4)

Sec. 17-27. Notice of violation.

Whenever the housing inspector determines that there are reasonable grounds to believe that there has been a violation of any provisions of this chapter, he shall give notice, as hereinafter provided, of such alleged violation to the person responsible. Such notice shall:

- (a) Be in writing.
- (b) Include a statement of the reasons why it is being issued.
- (c) Allow a reasonable time for the performance of any act it requires.
- (d) Be served upon the owner or occupant as the case may require. Such notice shall be deemed to be properly served upon such owner or occupant if a copy thereof is sent by registered mail to his last known address, if a copy thereof is posted in a conspicuous place in or about the dwelling affected by the notice or if he is served with such notice by any other method authorized or required under the laws of the City.

Such notices may contain an outline of remedial action, which, if taken, will effect compliance with provisions of this chapter. (Ord. of 7-25-68, Ch. I, Art. XII, Sec. 1)

Sec. 17-28. Method of petitioning for hearing.

Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this chapter, may request and shall be granted a hearing on the matter before the housing inspector: Provided that such person shall file in the office of the housing inspector a written petition requesting such hearing and setting forth a brief statement of the grounds therefor with ten (10) days after the day the notice was served.

Upon receipt of such petition, the Housing Inspector shall set a time and place for such hearing and shall give the petitioner time and place for such hearing and shall give the petitioner notice thereof in the manner prescribed in subsection (d) of the preceding section. The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed: Provided that upon application of the petitioner, the Housing Inspector may postpone the date of the hearing for a reasonable time beyond

such ten (10) day period, if in his judgment, the petitioner has submitted a good and sufficient reason for such postponement.

At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. (Ord. of 7-25-68, Ch.I, Art. XII, Sec.2)

Sec. 17-29. Inspector's power to sustain, modify, withdraw notice; action deemed an order.

After a hearing in accordance with the provisions of this article, the housing inspector shall sustain, modify or withdraw the notice required by section 17-27, depending upon his findings as to the compliance with the provisions of this chapter.

If the Housing Inspector sustains or modifies such notice, it shall be deemed to be an order.

Any notice served pursuant to section 17-27 of this article shall automatically become an order if a written petition for a hearing is not filed in the office of the Housing Inspector within ten (10) days after such notice is served. (Ord. of 7-25-68, Ch. I, Art. XII, Sec. 3)

Sec. 17-30. Record of public hearings to be kept.

The proceedings at hearings, provided by this article, including the findings and decision of the Housing Inspector, shall be summarized, reduced to writing and entered as a matter of public record in the office of the Housing Inspector.

Such record shall also include a copy of every notice order issued in connection with the matter. (Ord. of 7-25-68, Ch. I, Art. XII, Sec. 4)

Sec. 17-31. Restriction on disposal of property subject to order; penalty.

It shall be unlawful for the owner of any dwelling, dwelling unit, rooming house, rooming unit and premises against which any lawful order has been issued by the Housing Inspector to sell, transfer or otherwise dispose thereof to another, unless he shall first furnish to grantee prior to transfer thereof, a true copy of any order issued by the inspector and at the same time notify the Inspector in writing of the intent to transfer either by delivering such notice to the Inspector and receiving a receipt therefor, or by registered mail, return receipt requested, giving the name and address of the person to whom the transfer is proposed.

In the event of any violation of the terms of this section, the grantor shall be subject to the penalty provisions of section 17-3. (Ord. of 7-25-68, Ch. I, Art. XII, Sec. 5)

Sec. 17-32. Placarding authorized; procedure.

If a person affected by a decision of the Housing Inspector fails to appeal to the Zoning Board of Appeals or if after an appeal, the Board sustains the decision of the Inspector, the dwelling, dwelling unit, rooming house, or rooming unit so affected may be declared unfit for human habitation and placarded by the Housing Inspector.

To placard, the Inspector shall issue to the occupants and the owner or operator a written notice to vacate the premises within such time as the Inspector may deem reasonable, and

a placard prohibiting continued occupancy or re-occupancy may be conspicuously posted on the premises. (Ord. of 7-25-68, Ch. I, Art. XII, Sec. 7; Ord. of 8-24-81)

Editor's note – An ordinance of August 24, 1981, not expressly amendatory of Secs. 17-32, 17-37 has been treated as amending said sections by substituting the term “Zoning Board of Appeals” for the term “Housing Appeals Board”, at the discretion of the editor.

Cross reference – Zoning Board of Appeals, Part III, Sec. V.

Sec. 17-33. Defects warranting placarding.

Any dwelling, dwelling unit, rooming house or rooming unit which is found to have any of the following defects may be so designated and placarded by the Housing Inspector:

- (a) *Deteriorated*, broken or damaged portions of dwellings, etc.: The interior or exterior walls, foundation, doors, windows, floors, stairs, roof or any other portions of any dwelling, dwelling unit, rooming house or rooming unit are so deteriorated, broken, damaged or in such a state of disrepair to cause conditions detrimental to life and health.
- (b) *Lack of toilet facilities*: A lack of toilet facilities whereby a nuisance or a health hazard is created.
- (c) *Plumbing inadequacies*: The plumbing, plumbing fixtures, septic tanks or other waste disposal facilities are in such a condition to create a nuisance or a health hazard.
- (d) *Overcrowding*: Serious or dangerous overcrowding of persons in sleeping rooms or space whereby a hazard to health is created.
- (e) *Rodent or vermin infestation*: Rodent or vermin infestation within the building which may result in contamination of food or other health hazards.
- (f) *Lack of adequate water supply*: No adequate water supply is available or the available supply is subject to such contamination as may cause a health hazard.
- (g) *Infections or communicable disease*: An infectious or communicable disease exists therein and as a result thereof reasonable isolation and disinfecting procedures cannot be followed due to lack of sanitary facilities or overcrowding.
- (h) *Heating inadequacies*: No adequate heating facilities are available or maintained, or proper heating is not supplied.
- (i) *Other conditions*: Other conditions which are or may become detrimental to health. (Ord. of 7-25-68, Ch. I, Art. XIII, Sec. 1-1.9)

Sec. 17-34. Use of placarded buildings regulated; removal of placard.

No dwelling or dwelling unit, rooming house or rooming unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the Housing Inspector. The Inspector shall remove such placard whenever the defect upon which the placarding action was based on or has been eliminated. (Ord. of 7-25-68, Ch. I, Art. XII, Sec. 7.1)

Sec. 17-35. Defacing, unauthorized removal of placards.

No person shall deface or remove the placard from any dwelling or dwelling unit, rooming house or rooming unit, which has been declared unfit for human habitation and placarded as such. (Ord. of 7-25-68, Ch. I, Art. XII, Sec. 7.2)

Sec. 17-36. Authority to vacate premises, placard upon refusal.

In instances where the Housing Inspector determines that extreme danger or menace to the occupants or the public health exists, the Inspector may order immediate correction to be made or, if the circumstances warrant, may order the vacating of the occupants.

If any person so notified, neglects or refuses to comply with an order of the Inspector, the Inspector may then declare the premises unfit for human habitation by issuing to the occupants and the owner or operator a written order to vacate the premises within such time as he may deem reasonable, and a placard prohibiting continued occupancy or re-occupancy may be conspicuously posted on the premises. (Ord. of 7-25-68, Ch. I, Art. XII, Sec. 8)

Sec. 17-37. Appeal of Inspector's decision.

Any person aggrieved by an order of the Housing Inspector may file an appeal within ten (10) days from the date of such order to the Zoning Board of Appeals who may, by a majority vote of its entire membership, reverse the decision of the Housing Inspector and permit exceptions to or variations from the specific terms of this chapter in such cases where the enforcement of the provisions of this chapter may result in undue hardship, subject always to the rule that the Board shall give due consideration to the purposes of this chapter in promoting health, safety, and general welfare. (Ord. of 7-25-68, Ch. I, Art. XII, Sec. 6; Ord. of 8-24-81)

Note – See the editor's note accompanying Sec. 17-32.

Secs. 17-38 – 17-46. Reserved.

Editor's note – Provisions formerly set out as Sec. 17-38 – 17-46 have been treated, at the editor's discretion, as being superseded by provisions of an ordinance of August 24, 1981. Said ordinance transferred to the Zoning Board of Appeals the jurisdiction and functions of the Housing Appeals Board, formerly set out herein, and derived from Ch. I, Art. XI, Secs.; 1, 1.1, of an ordinance of July 25, 1968.

Cross reference – Zoning Board of Appeals, Part III, Sec. V.

Secs. 17-47 – 17-56. Reserved.

ARTICLE III. MAINTENANCE

Sec. 17-57. Safe and sanitary maintenance required.

No person shall occupy as owner or let to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not comply with the following

requirements relating to the safe and sanitary maintenance of parts of dwellings and dwelling units. (Ord. of 7-25-68, Ch. I, Art. VII, Sec. 1)

Sec. 17-58. Weatherproofing, rodent proofing, repairs required.

Every foundation, floor, wall, ceiling, and roof shall be reasonably weathertight and rodentproof; shall be capable of affording privacy, and shall be kept in good repair.

Every window, exterior door, and basement hatchway shall be reasonably weathertight, and rodentproof, and shall be kept in sound working condition and good repair. (Ord. of 7-25-68, Ch. I, Art. VII, Sec. 1.1)

Sec. 17-59. Stairs, porches; general construction standards.

Every inside and outside stair, every porch and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair. (Ord. of 7-25-68, Ch. I, Art. VII, Sec. 1.2)

Sec. 17-60. Handrails required.

Every stairway four (4) feet or more in height shall have a safe and proper handrail. (Ord. of 7-25-68, Ch. I, Art. VII, Sec. 12.1)

Sec. 17-61. Railings, parapets required; proper balustrading.

Every stairway four (4) feet or more in height shall have a safe and proper handrail. (Ord. of 7-25-68, Ch. I, Art. VII, Sec. 12.1)

Sec. 17-62. Construction of bathroom, water closet floors.

Every water closet compartment floor surface and bathroom floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition. (Ord. of 7-25-68, Ch. I, Art. VII, Sec. 1.3)

Sec. 17-63. Unauthorized removal, discontinuance of required services, utilities, etc.

No owner, operator, or occupant shall cause any service, facility, equipment, or utility which is required under this chapter, to be removed from or shut off from or discontinued from any occupied dwelling let or occupied by him, except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is approved by the Housing Inspector. (Ord. of 7-25-68, Ch. 1, Art. VII, Sec. 1.4)

Sec. 17-64 – 17-74. Reserved.

ARTICLE IV. SPACE, USE AND OCCUPANCY

Sec. 17-75. Compliance required.

No person shall occupy or let to another for occupancy any dwelling unit, for the purpose of living therein, which does not comply with the requirements for space, use and occupancy enumerated in this article. (Ord. of 7-25-68, Ch. I, Art. VI, Sec. 1)

Sec. 17-76. Floor space requirements.

Every dwelling unit shall contain at least one hundred (100) square feet of floor area per occupant.

Every sleeping room used for sleeping purposes shall contain a minimum of seventy (70) square feet of floor area and at least fifty (50) square feet of floor area per person with all measurements based on the total habitable room area; provided the occupancy of any dwelling unit having more than one (1) habitable room shall not exceed an average of one and one-half (1 ½) persons per habitable room; and provided further that for the purposes of this section, a child under ten (10) years of age shall be deemed to be one-half (1/2) person. (Ord. of 7-25-68, Ch. I, Art. VI, Sec. 1.1)

Sec. 17-77. Ceiling height requirements.

At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of at least seven (7) feet; and the floor area of that part of any room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof. (Ord. of 7-25-68, Ch. I, Art. VI, Sec. 1.2)

Sec. 17-78. Use of basement as habitable room or dwelling unit.

No basement or cellar space shall be used as a habitable room or dwelling unit unless the floors and walls are free from chronic dampness and protected from surface runoff, have adequate ventilation and egress. (Ord. of 7-25-68, Ch. I, Art. VI, Sec. 1.3)

Sec. 17-79. Inspector's approval for temporary housing.

No temporary housing shall be used without the written permission of the housing inspector. (Ord. of 7-25-68, Ch. I, Art. VI, Sec. 1-4)

Sec. 17-80. – 17-89. Reserved.

ARTICLE V. LIGHT, VENTILATION, HEATING AND EGRESS³⁷

Sec. 17-90. Compliance with regulations required.

³⁷ **State law reference** – Municipal authority to regulate light and ventilation of all buildings, 30 M.R.S.A. Sec. 2151 (4).

No person shall occupy as owner or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the requirements enumerated in this article. (Ord. of 7-25-68, Ch. I, Art. V, Sec. 1)

Sec. 17-91. Minimum window and skylight areas.

Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors.

The minimum total window or skylight area of any habitable room shall be ten per cent (10%) of the floor area of any such room. Whenever walls or other portions of structures face a window of any such room and such light obstruction structures are located less than three (3) feet from the window and extend to a level above that of the window of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal fifteen per cent (15%) of the total floor area of such room. (Ord. of 7-25-68, Ch. I, Art. V, Sec. 1.1)

Sec. 17-92. Openable window area.

Every habitable room shall have at least one (1) window or skylight, which can be easily opened. The total openable window area in every habitable room shall be equal to at least fifty percent (50%) of the minimum window area or minimum skylight area, as required in preceding section 17-91, except where there is supplied some other device affording adequate ventilation and approved by the Housing Inspector. (Ord. of 7-25-68, Ch. 1, Art. V, Sec. 1.2)

Sec. 17-93. Light, ventilation requirements for bathrooms, water closets.

Every bathroom and water closet compartment shall be well lighted and ventilated. Three (3) foot candles of light (three (3) lumens per square foot) shall be provided by either natural or artificial means and shall be available at all times. Such light shall be measured thirty-six (36) inches from the floor at the center of the room. Every bathroom and water closet compartment shall have at least one (1) window or skylight, which can be easily opened.

Sec. 17-94. Electric outlets required; installation; temporary wiring restricted.

Where there is electric service available from power lines which are not more than three hundred (300) feet away from a dwelling, every habitable room shall contain at least two (2) separate wall type electric convenience outlets, or one (1) such convenience outlet and one (1) ceiling type or wall type electric light fixture. Every such outlet and fixture shall be properly installed, shall be maintained in good safe working condition and shall be connected to the source of electric power in accordance with the National Board of Fire Underwriters Code.

No temporary wiring shall be used except extension cords, which run directly from portable electric fixtures to convenience outlets, and which do not lie under rigs, or other floor coverings, nor extend through doorways, transoms, or other openings through structural elements. (Ord. of 7-25-68, Ch. I, Art. V, Sec. 1.4)

Sec. 17-95. Passageway lighting required.

Every portion of any common passageway or staircase in a building used for human habitation shall be illuminated naturally or artificially at all times with an illumination of at least two (2) foot candles (two (2) lumens per square foot) in the darkest portion of the normally traveled stairs and passageways. Such means of illumination in dwellings of three (3) dwelling units or less with a common passageway may be controlled by switches that may be turned on as needed. (Ord. of 7-25-68, Ch. I, Art. V, Sec. 1.5)

Sec. 17-96. Heating equipment required; standards.

Every dwelling unit shall have heat generating equipment properly installed and capable of safely heating all rooms except those used exclusively for sleeping purposes to a temperature of at least seventy degrees (70) Fahrenheit measured at a distance of thirty-six (36) inches above the floor level, under ordinary winter conditions.

The requirements of this paragraph shall not apply to dwelling units solely for seasonal occupancy during the months of March through October.

Heat supplied by the landlord shall conform to the above standards during cold weather. (Ord. of 7-25-68, Ch. I, Art. V, Sec. 1.6)

Sec. 17-97. Proper venting of other than central heating systems.

When heat is not furnished by a central heating plant, each dwelling unit shall be provided with one (1) or more masonry flues and smoke or vent pipe connections or approved equal arrangement to vent satisfactory and safely. (Ord. of 7-25-68, Ch. I, Art. V, Sec. 1.7)

Sec. 17-98. Means of egress to be unobstructed.

Every means of egress from a dwelling unit shall be safe unobstructed and accessible for all occupants. (Ord. of 7-25-68, Ch. I, Art. V, Sec. 1.8)

Secs. 17-99 – 17-108. Reserved.

ARTICLE VI. INSECT AND RODENT CONTROL

Sec. 17-109. Dwellings to be free of insects, rodents.

Every dwelling shall be free from insects, rodents, or vermin. (Ord. of 7-25-68, Ch. I, Art. VIII, Sec. 1)

Sec. 17-110. Authority to require extermination, proofing.

Rodent or vermin extermination and rodent proofing may be required by the Housing Inspector. (Ord. of 7-25-68, Ch. I Art. VIII, Sec. 1)

Sec. 17-111. Owner's responsibility for extermination.

Whenever infestation of vermin or rodents is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonable insect-proof condition, the responsibility for extermination shall fall upon the owner.

Whenever infestation exists in two (2) or more of the dwelling units in any dwelling, or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner. (Ord. of 7-25-68, Ch. I, Art. VIII, Sec. 2)

Sec. 17-112. Occupant's responsibility for extermination.

Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises. (Ord. of 7-25-68, Ch. I, Art. VIII, Sec. 3)

Sec. 17-113. Screens required.

During that portion of each year when the Housing Inspector deems it necessary for protection against mosquitoes, flies, and other insects, every door opening from a dwelling unit to outdoor space shall have supplied screens and a self-closing device and every window or other device with openings to outdoor space, used for ventilation, shall likewise be supplied with screens.

In every basement or cellar at least one (1) window, and every opening used for ventilation, which might provide an entry for rodents, shall be supplied with a screen or such other device as will effectively prevent their entrance. (Ord. of 7-25-68, Ch. I, Art. VIII, Sec. 4)

Sec. 17-114 – 17-123. Reserved.

ARTICLE VII. GARBAGE AND RUBBISH³⁸

Sec. 17-124. Garbage disposal units or containers required.

Every dwelling unit shall be supplied with adequate garbage disposal facilities or suitable watertight covered containers, whose type and location are approved by the Housing Inspector. (Ord. of 7-25-68, Ch. I, Art. IV, Sec. 1)

Sec. 17-125. Rubbish containers required.

³⁸ **Cross reference** – Garbage and rubbish, Ch. 16.

Every dwelling unit shall be provided with suitable and sufficient containers, whose type and location are approved by the Housing Inspector to receive the accumulation of rubbish and other nonperishable waste on the premises. (Ord. of 7-25-68, Ch. I, Art. IV, Sec. 2)

Sec. 17-126. Occupant to furnish garbage, rubbish receptacles within unit.

It shall be the responsibility of an occupant of a dwelling unit to furnish such garbage and rubbish storage receptacles as are necessary within the dwelling unit. (Ord. of 7-25-68, Ch. I, Art. IV, Sec. 3)

Sec. 17-127. Occupant's to furnish receptacles outside of unit.

In dwellings with seven (7) or less dwelling units, it shall be the responsibility of the occupant of a dwelling unit as are necessary for the storage of garbage and rubbish until removal from the premises. (Ord. of 7-25-68, Ch. I, Art. IV, Sec. 4)

Sec. 17-128. Owner to provide receptacles outside units.

In dwellings containing eight (8) or more dwelling units, it shall be the responsibility of the owner to furnish such receptacles outside of the dwelling units as are necessary for the storage of garbage and rubbish until removal from the premises. (Ord. of 7-25-68, Ch. I, Art. IV, Sec. 5)

Sec. 17-129. Disposal of garbage, rubbish generally.

Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and rubbish in a clean and sanitary manner. (Ord. of 7-25-68, Ch. I, Art. IV, Sec. 6)

Sec. 17-130. Dwellings to be free of refuse; inspector to remedy unsanitary conditions.

Every dwelling shall be clean and free from garbage or rubbish. When a dwelling or dwelling unit is not reasonably clean or free from garbage or rubbish, the Housing Inspector may cause the responsible person to put the dwelling or dwelling unit in a clean and sanitary condition. (Ord. of 7-25-68, Ch. I, Art. IV, Sec. 7)

Secs. 17-131 – 17-140. Reserved.

ARTICLE VIII. PLUMBING³⁹

Sec. 17-141. Compliance required.

No person shall occupy as owner or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking, or eating therein, which does not comply with the requirements enumerated in this article. (Ord. of 7-25-68, Ch. 1, Art. III, Sec. 1)

³⁹ **Cross reference** – Plumbing, Ch. 24; sewers and drains, Ch. 26.

Sec. 17-142. Installation and maintenance generally.

All plumbing regulated by the provisions of this article shall be properly installed and maintained in a good sanitary working condition, free from defects, leaks and obstruction. (Ord. of 7-25-68, Ch. I, Art. III, Sec. 1.8)

Sec. 17-143. Continuous, ample supply of hot and cold water required.

Every kitchen sink, lavatory basin, and bathtub or shower required under the provisions of this article shall be properly connected to a continuous and ample supply of hot and cold water lines with adequate supply and pressure.

The hot water lines shall be connected with water heating facilities which are capable of heating to such a temperature as to permit an adequate amount of hot water to be drawn at every required fixture at all reasonable times. (Ord. of 7-25-68, Ch. I, Art. III, Sec. 1.4)

17-144. Sewerage system required.

Where connection to a public sewer is not practicable, a dwelling unit shall be served by an underground water-borne sewerage treatment system approved by the Housing Inspector and maintained in a proper manner;. (Ord. of 7-25-68, Ch. I, Art. III, Sec. 1.7)

Cross reference – Sanitary sewerage system required, Sec 26-10 et seq.

Sec. 17-145. Drains required.

Every sink, tub, shower, toilet, or other plumbing fixture in a building used for habitation shall be provided with a proper and unobstructed drain which discharges into a sewerage system outside the building, and said fixtures and drains shall be maintained by the owner in a sanitary working condition at all times. (Ord. of 7-25-68, Ch. I, Art. III, Sec. 1.9)

Sec. 17-146. Kitchen sink required.

Every dwelling unit shall contain a kitchen sink in good working condition and properly connected to a water and sewerage system approved by the Housing Inspector. (Ord. of 7-25-68, Ch. I, Art. III, Sec. 1.1)

Sec. 17-147. Bathtub or shower required.

Every dwelling unit shall contain, in a room, which affords privacy, a bathtub or shower in good working condition and properly connected to a water and sewerage system approved by the housing inspector. (Ord. of 7-25-68, Ch. I, Art. III, Sec. 1.3)

Sec. 17-148. Flush water closet, lavatory required.

Every dwelling unit shall contain, in a room which affords privacy, a flush water closet and a lavatory basin in good condition and properly connected to a water and sewerage system approved by the Housing Inspector. (Ord. of 7-25-68, Ch. I, Art. III, Sec. 1.2)

Sec. 17-149. Water closet, bathtub to be accessible.

The water closet and bathtub or shower compartment for each dwelling unit shall be accessible from within the building without passing through any part of any other dwelling unit. (Ord. of 7-25-68, Ch. I, Art. III, sec. 1.5)

Sec. 17-150. Backwater valves required for floor drains.

All newly constructed dwellings with floor drains that are connected to the City's public sewer or storm drain system shall be equipped with an approved backwater valve before a certificate of occupancy shall be issued. All such backwater valves must comply with the provisions of the state plumbing code and shall be located where they will be readily and easily accessible for inspection and repair as required by said code. (Ord. of 1-15-79)

Secs. 17-151 – 17-159. Reserved.

ARTICLE IX. ROOMING HOUSES

Sec. 17-160. Compliance required.

No person shall operate a rooming house or shall occupy or let to another for occupancy any rooming unit in any rooming house, which does not comply with the requirements of this article. (Ord. of 7-25-68, Ch. I, Art. X, Sec. 1)

Sec. 17-161. Operator responsible for sanitary maintenance.

The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every other part of the rooming house; and he shall further be responsible for the sanitary maintenance of the entire premises where the entire structure of the building is leased or occupied by the operator. (Ord. of 7-25-68, Ch. I, Art. X, Sec. 1.4)

Sec. 17-162. Water closet, bath and shower requirements.

At least one (1) flush water closet and bathtub or shower, properly connected to a water and sewerage system approved by the Housing Inspector and in good working condition, shall be supplied for each eight (8) persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of such facilities: Provided that in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-half (1/2) the required number of water closets

All such facilities shall be located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.

Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.

No such facilities shall be located in a basement except by written approval of the Housing Inspector. (Ord. of 7-25-68, Ch. I, Art. X, Sec. 111)

Sec. 17-163. Floor space requirements for sleeping rooms.

Every room occupied for sleeping purposes by one (1) person shall contain at least seventy (70) square feet of floor space, and every room occupied for sleeping purposes by more than one (1) person shall contain at least fifty (50) square feet of floor space for each occupant thereof. (Ord. of 7-25-68, Ch. I, Art. X, Sec. 1.2)

Sec. 17-164. Supplied linen and towels; operator's responsibility.

The operator of every rooming house shall change supplied bed linen and towels therein at least once each week, and prior to letting of any room to any occupant.

The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner. (Ord. of 7-25-68, Ch. I, Art. X, Sec. 1.3)

Chapter 18
GENERAL ASSISTANCE PROGRAM⁴⁰

Sec. 18-1. Purpose.

This chapter establishes a general assistance program in accordance with the requirements of Title 22, M.R.S.A., Chapter 1251. (Ord. of 4-02-79)

Sec. 18-2. General Assistance Administrator – Position created; appointment; removal.

There is hereby created the position of General Assistance Administrator, who shall be appointed by the Mayor upon the recommendation of the Overseers of the Poor. The General Assistance Administrator may be removed for good cause by the Mayor after reviewing the recommendation of the Overseers of the Poor. (Ord. of 4-02-79)

Sec. 18-3. Same – Duties.

The General Assistance Administrator shall perform the duties and functions as provided in the Rules and Regulations for General Assistance Administration and as required by State Law. (Ord. of 4-02-79)

Sec. 18-4. Fair hearing authority established.

The overseers of the poor, appointed pursuant to Section 30 of the Westbrook City Charter, shall act as the fair hearing authority to hear appeals from actions of the General Assistance Administrator as provided in the Rules and Regulations for General Assistance Administration and in accordance with State Law. (Ord. of 4-02-79)

Sec. 18-5. General assistance standards.

The City Council shall establish by ordinance, to be known as the “*Rules and Regulations for General Assistance Administration of the City of Westbrook*”, standards establishing:

- (a) The criteria of eligibility for relief;
- (b) The criteria for determination of need of each applicant for relief;
- (c) The maximum amount of assistance to be provided;
- (d) That all persons wishing to apply shall have opportunity to do so;
- (e) That relief shall be furnished or denied within twenty-four (24) hours of the date of submission of a completed written application; and
- (f) The procedure for appealing actions of the General Assistance Administrator to the fair hearing authority.

These rules and regulations shall be available in the Office of the City Clerk and the General Assistance Administrator and shall be made available to any member of the public. (Ord. 04 4-02-79)

⁴⁰ **Cross reference** – Administration, Ch. 2.

Sec. 18-6. Confidentially of information.

Records, papers, files and communications relating to an applicant for or a recipient of general assistance relief are confidential and may not be released or made public except as provided in Title 22, M.R.S.A., Section 4508. (Ord. of 4-02-79)

Chapter 19
LIBRARIES⁴¹

Sec. 19-1. Board membership of Walker Memorial Library.

The Mayor, by virtue of his Office, and five (5) persons to be appointed by him, one (1) from each ward of the City, shall constitute and be known as the Board of Regents of the Walker Memorial Library. (1942 Rev. Code, Ch. XXIII, Sec. 1)

Sec. 19-2. Board's duties generally.

- (a) The Board of Regents as established in the preceding section shall discharge all duties incumbent upon the City respecting the Walker Memorial Library, so called, which has been established in the City under the provisions of the last will and testament of Joseph Walker, deceased.
- (b) The Board shall meet at the library building or some other suitable place in the City at such stated time as the majority of the Board shall fix, shall keep a full record of their proceedings and provide suitable persons to act as librarians and care for the library building and grounds.
- (c) The Board shall, with the cooperation and advice of the trustees appointed by the judge of Probate for the County of Cumberland under the twenty-eighth item of said will, made and adopt suitable rules and regulations respecting the care, use and control of the grounds, building and books belonging to the library; and in the discharge of their official duties may incur such expenses from the appropriations made for the library by the Council as are reasonable and proper.
- (d) The compensation of library personnel shall be established by the City Council, after considering the recommendations of the Board of Regents, in a manner consistent with the provisions set forth in a City personnel policy. (1942 Rev. Code, Ch. XXIII, Sec. 1; Ord. of 2-20-73)

Sec. 19-3. Procedure for filling Board vacancies.

If by reason of death, resignation or removal from the City or removal from office by the Mayor, a vacancy in the Board of Regents of the Walker Memorial Library shall occur at any time, the same shall be filled for the unexpired term by appointment from the ward in which the person causing such vacancy resided at the time of his appointment. (1942 Rev. Code, Ch. XXIII, Sec. 1)

Sec. 19-4. Annual appointment of Board members.

On the first Monday of January, or as soon as may be thereafter, the Mayor shall annually appoint one (1) person to serve on the Board of Regents of the Walker Memorial Library, such appointment shall be for five (5) years and shall be made from the ward in which the person lives whose expired term of service caused such vacancy. (1942 Rev. Code, Ch. XXIII, Sec. 1)

⁴¹ **State law reference** – Public libraries, 27 M.R.S.A. Secs. 101-109.

Sec. 19-5. Board to submit annual estimate of expenses, report of preceding year.

The Board of Regents of the Walker Memorial Library shall annually, in the month of January, lay before the Council a careful and detailed estimate of the amount of money that will be needed to defray the expenses of the library for the year ensuing; and shall, on or before the last day of February in each year, submit a full report of their doings for the year preceding, which shall be included in and printed with the City reports. (1942 Rev. Code, Ch. XXIII, Sec. 2)

Sec. 19-6. Treasurer's, auditor's duties generally.

The City Treasurer and the Auditor of Accounts of the City shall serve in the same capacities for the Board of Regents of the Walker Memorial Library and shall keep separate accounts with the library, which shall be submitted with their annual reports to the City and printed with the same. (1942 Rev. Code, Ch. XXIII, Sec. 3)

Chapter 20 LICENSES AND PERMITS⁴²

- Art. I. In General, Secs. 20-1 – 20-9
- Art. II. Amusement Permits for Liquor-Licensed Establishments,
Sec.20-10 – 20-25
- Art. III. Pinball and Video Machines, Secs. 20-26 – 20-33
- Art. IV. Transient Sales, Sec. 20-35 – 20-42
- Art. V. Massage Establishments, Sec. 20-50 – 20-61
- Art. VI. Sale of Tobacco Products, Sec. 20-71 – 20-78

ARTICLE I. IN GENERAL

Sec. 20-1. Licenses subject to regulations.

All licenses granted by the Municipal Officers of the City shall be subject to the terms, regulations and conditions of this chapter, and to such other conditions and regulations as the licensing board may from time to time adopt.

Cross reference – Code Enforcement Officer to perform duties of license inspector, Sec. 2-137.

Sec. 20-2. Applications to be in writing, contents.

All applications for licenses shall be in writing and signed by the applicant or his agent and shall clearly state the time, place and purpose for which such license is desired.

Sec. 20-3. Clerk to notify Chief of licenses granted; issue certificates.

When a license is granted, the City Clerk shall immediately notify the Chief of Police of the particulars thereof.

The Clerk may issue to an applicant for a license a certificate setting forth the terms and conditions of the license.

Sec. 20-4. Schedule of fees.

The license fees, which are due yearly unless otherwise stated, are as follows:

Billiard and poolroom	(Expires May 1)	\$85.00
Bowling alley	(Expires May 1)	\$85.00
Boxing exhibitions, each performance		\$ 5.00
Dance halls	(Expires Dec. 31)	\$20.00
Explosive, blasting	(Expires Dec. 31)	\$15.00
Supplies only.	Itinerant dealer	\$60.00

⁴² **Cross references** – Dog licenses, Secs. 4-27 et seq.; bicycle licenses, Sec. 5-5 et seq.; license to operate restaurants, drive-ins, itinerant restaurants and mobile vending units, Sec. 14-17; taxicab licenses, 33-13 et seq.; license to sell gunpowder, Sec. 34-3.

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Junk collector	(Expires Dec. 31)	\$ 5.00
Junk dealer	(Expires Dec. 31)	\$25.00
Pawnbroker	(Expires Dec. 31)	\$25.00
Plumber – Business	(Expires Mar. 30)	\$10.00
Journeyman	(Expires Mar. 30)	\$ 1.00
Public market	(Expires June 30)	\$ 5.00
Tobacco	(Expires Apr. 30)	\$25.00
Skating rink-roller	(Expires June 30)	\$15.00
Taxicab – Each	(Expires June 30)	\$40.00
Driver	(Expires June 30)	\$25.00
Plus cost of Badge		
Renewal	(Expires June 30)	\$25.00
Theaters	(Expires June 30)	
Seating capacity of 500 to 999		\$100.00
Seating capacity of 1 to 499		\$75.00
**Victualer	(Expires Apr 30)	
(a) Restaurant – with no cooking on premises		\$70.00
(b) Restaurant – WITH cooking on premises		\$70.00
(c) with MALT Beverages for consumption on premises		\$100.00
(d) Restaurant – Class A, with LIQUOR for consumption		
On premises		\$500.00
(e) Itinerant Restaurant - \$2.00 per day with maximum of		\$21.00
(f) Mobile vending unit		\$100.00
Wrestling, each performance		\$ 5.00

**Westbrook based non-profit organizations shall pay 50% of posted fee (1942 Re. Code, Ch. XXXII-A, Sec 3, Ch XLI, Sec. 7; Ord. of 3-14-46; Ord. of 8-07-62; Ord. of 2-03-86; Ord. of 1-22-91)

Cross references – License fees for dogs, Sec. 4-29; bicycle license fees, Sec. 5-6; license required for victualers, Sec. 14-17.

Sec. 20-5. Payment of fees to Clerk, Treasurer.

The license fees enumerated in this chapter shall be paid to the City Clerk or Treasurer before the license can have legal operation. (1942 Rev. Code, Ch. XXXII-A, Sec. 3)

Itinerant dealers to obtain license.

No itinerant dealer in merchandise or junk shall buy or sell any of his wares within the limits of the City without previously obtaining a license. (1942 Rev. Code, Ch. XXXII, Sec. 1)

Sec. 20-7. Proration of certain fees.

The fee required by any provision of this Article shall be prorated by the official or body granting such license or permit when the following criteria are met:

- (1) The application must be for a new license or permit;
 - (2) The fee must be for an annual license or permit;
 - (3) The license or permit, if granted, would expire in less than one year; and
 - (4) The amount of such prorated fee is not less than one-quarter of the annual fee.
- (Ord. of 4-01-1991)

Sec. 20-8. Transferability of license, permit.

No license issued pursuant to the provisions of this chapter shall thereafter be transferred to another person or firm, to another location, or to another vehicle or device. Upon the termination or transfer of a business or occupation, the successor shall make new application for a permit or license. No part of a license fee shall be refunded in the event the licensed activity ceases prior to the expiration of the license.

Editor's note – An ordinance of Sept. 27, 1982, repealed former Secs. 14-7 and 14-8, which had pertained to licensing and permit regulations for pinball machines; said former sections had been ordinance of march 2, 1981. Provisions enacted by said ordinance of September 27, 1982, in lieu of those repealed, are codified as Art. III, Secs. 20-26 – 20-33.

Sec. 20-9. Reserved.

ARTICLE II. AMUSEMENT PERMITS FOR LIQUOR-LICENSED ESTABLISHMENTS

Sec. 20-10. Amusement permit required.

No licensee for the sale of liquor to be consumed on the premises shall permit any music, (except radio or other mechanical device), any dancing or entertainment of any sort, as defined by Title 28 M.R.S.A., Section 702 (7), unless he or she shall first have obtained an amusement permit issued by the Municipal Officers. (Ord. of 8-28-78)

Sec. 20-11. Application for amusement permit.

- (a) The applicant for an amusement permit shall file with the City Clerk, on or before June first of each year, an amusement permit application on forms provided for that purpose by the City Clerk. The application fee shall be twenty-five dollars (\$25.00).
- (b) The City Clerk, upon receipt of a completed application, shall immediately forward same to the Code Enforcement Officer, the Fire Chief and the Chief of Police, who shall investigate the application and/or premises for compliance with the provisions of this article and shall report their findings to the Municipal Officers who shall hold a *public hearing* thereon at their next regular or special meeting. Notice of the said public hearing shall be mailed to the applicant and published in a paper of general circulation in the City at least seven (7) days prior to said hearing. The cost of said publication shall be paid by the applicant. (Ord. of 8-28-78; Ord. of 7-06-82; Ord. of 2-03-86)

Sec. 20-12. Review of permit application.

- (a) At the public hearing required by Section 20-11, the Municipal Officers shall take the testimony of the applicant and any interested members of the public and shall review the findings of the Code Enforcement Officer, the Fire Chief and the Chief of Police in order to determine that the following criteria and standards are met:
 - (1) The applicant shall be of good moral character. Evidence of moral character may be deduced from the applicant's prior criminal record, if any, prior history of compliance, suspensions or revocations of required State or local permits or licenses and any other factors which reflect upon the moral character of the applicant.
 - (2) The applicant shall not be in default of any obligations or debts to the City including real or personal property taxes.
 - (3) The premises for which such permit is sought shall comply with all building, housing, fire and other safety codes of the City.
 - (4) The music, dancing or entertainment proposed by the applicant shall not be of a lewd or obscene nature, shall not result in any nuisances to owners of adjoining property or to the public and shall not be detrimental in any way to the health, safety and general welfare of the public.
- (b) The Municipal Officers shall notify the applicant within seven (7) days in writing of their action and, if the permit is denied, shall state the reasons therefor. (Ord. of 8-28-78)

Sec. 20-13. Right of inspection of licensed premises.

The applicant, his agents and employees, shall allow access by the Code Enforcement Officer, Fire Chief and Chief of Police or their designated assistants or agents for the purpose of inspecting the premises to assure compliance with the provisions of this article. (Ord. of 8-28-78)

Sec. 20-14. Permit revocation; appeals.

- (a) The holder of any amusement permit granted pursuant to this article who violates any provision of this chapter shall be notified by the City Clerk in writing of the violation and shall be given a reasonable period of time to correct same. If the violation is not corrected as provided in the said notice the matter shall be referred to the Municipal Officers who, after notice to the applicant and public hearing, may suspend or revoke the amusement permit.
- (b) The holder of any permit which has been suspended or revoked or an applicant whose application for a permit has been denied may, within thirty (30) days of the suspension, revocation or denial, appeal the decision to the Westbrook Board of Appeals as provided in Title 28 M.R.S.A. Section 702 (4) (b). (Ord. of 8-28-78)

Sec. 20-15. Penalties.

In addition to the suspension or revocation of the amusement permit provided in Section 20-14, any person who violates any provision of this article shall be subject to a fine of

up to one hundred dollars (\$100.00). Each day that such violation continues shall be considered a separate offense. (Ord. of 8-28-78)

Note: Municipal Officers adopted additional regulations governing special amusement licenses. On file in City Clerk's Office. (Ord. 2-6-95)

Secs. 20-16 – 20-25. Reserved.

ARTICLE III. PINBALL AND VIDEO MACHINES⁴³

Sec. 20-26. Definitions.

- (a) **Coin-operated amusement machine.** As used in this article, a “coin-operated amusement machine” shall include any and all those mechanical or electronic machines or games which, upon the insertion of a coin, slug, token, plate or disc, or upon payment of a fee, may be operated by the public generally, or the members of a club or organization, for use as a game, entertainment or amusement and which does not dispense any form of payoff, prize or reward except free replays; whether or not they register a score and/or can be placed in operation by a remote control.
- (b) **Qualified applicants.** The phrase “qualified applicant” shall mean a person, firm, corporation or association of good moral character. Proof of good moral character shall include general testimony of applicant's reputation in the community and the results of a records check by Police Department. Such results shall be considered relevant only if they disclose a felony conviction within the last ten (10) years.
- (c) **Qualified premises.** The phrase “qualified premises” shall mean the business location where the coin-operated amusement machines are to be licensed, which must comply in every respect with the local zoning ordinance, and also with the State and local building, plumbing, health and fire safety codes, rules and regulations; and the proposed use of the premises shall not adversely affect the proper use or property values of the other property in the area and does not create any traffic hazards in the area. (Ord. of 9-27-82, Sec. 2)

Sec. 20-27. License required for coin-operated amusement machines.

No person, firm, corporation or association shall keep for public patronage, or allow the operation of, any coin-operated amusement machine in or on any premises under his, her or its charge, custody or control without first having obtained an annual license therefor from the City Clerk upon the approval of the issuance of said license by the Municipal Officers and the payment of the applicable license fees herein set forth; which license shall not be transferable and shall expire on June 30th of each year. Said licenses shall be granted only to qualified applicants and premises as meet the strict requirements of this article. (Ord. of 9-27-82, Sec. 1)

Sec. 20-28. License application and information required; fees.

⁴³ **Editor's note** – Sections 1-8 of an ordinance of September 27, 1982, amended the Code by addition of the provisions set out herein, at the Editor's discretion, as Art. III, Secs. 20-26 – 20-33.

- (a) Every applicant for such a license or the renewal of same shall complete and file an application on a form prescribed by the City Clerk, which shall state the number of amusement machines to be licensed, and pay an application fee of twenty-five dollars (\$25.00) with said application; and upon the receipt of the license as approved and granted by the Municipal Officers, the applicant shall pay an annual license fee of one hundred dollars (\$100.00) for each amusement machine that is so licensed.
- (b) As part of said application the applicant shall file an affidavit which will identify all the owners, officers, partners or managers of the applicant's place of business, with the places of residence at the time of the application and for the immediately preceding five (5) years, and a statement as to the nature, date and location of any criminal convictions, excluding motor vehicle violations, as to those persons, within the preceding five (5) years. Also, each of those named persons, if so requested by the Chief of Police shall file a signed release authorized by Title 16, Section 620 (6), Criminal History Record Information Act, of the Maine Revised Statutes. The submission of any false information in any application to deliver said signed release, if so requested by the Chief of Police, for obtaining the applicable criminal record information, shall be grounds for the denial of the application or revocation of any license previously granted. (Ord. of 9-27-82, Sec. 3)

Sec. 20-29. Investigation of application and public hearing.

- (a) Upon receipt of each application with the filing fee, the City Clerk shall forward copies of same to the Code Enforcement Officer, the Fire Chief and the Police Chief for their investigation and they shall prepare a written report as to whether the applicant and the proposed licensed premises are qualified for the issuance of said license, as per the provisions of subsections 14-26 (b) and said license, as per the provisions of subsections 14-26 (b) and (c) of this article and the other applicable provisions of the City Code of Ordinances, State and Federal laws. The said reports shall be filed with the City Clerk, who shall forward copies of same along with a copy of the application and affidavit to the Municipal Officers.
- (b) The Municipal Officers shall hold a public hearing on the application for the proposed license within thirty (30) days of the receipt of the application by the City Clerk. After said public hearing the Municipal Officers, by a majority vote, may authorize the issuance of said license, provided that the applicant and the proposed licensed premises are found qualified for the issuance of the license under the provisions of this article. Any vote for the denial of said license must set forth the reasons for same. (Ord. of 9-27-82, Sec. 4)

Sec. 20-30. General conditions for licensing and operation.

- (a) No license shall be issued if the applicant or any owner, officer, manager or partner of the applicant shall have been convicted of a crime, excluding motor vehicle violations, in this State or any other state within five (5) years immediately preceding the date of the application.

- (b) No such license shall be issued for any premises if the main entrance of said premises are located within two hundred and fifty (250) feet of any school, church or residential property, unless the applicant can show to the satisfaction of the Municipal Officers that the issuance of said license will have no detrimental or adverse effects on the general welfare of the area or normal use of the property in the area.
- (c) No person under the age of sixteen (16) years of age shall be permitted to use or operate such licensed amusement machine, unless accompanied by his or her parent or legal guardian. No school age children shall be allowed to play such machines during regular school hours. It shall be the responsibility of the licensee and persons in charge of the management of the licensed premises to ensure compliance with the provisions of this section and the failure to do so shall be grounds for the revocation of said license.
- (d) There shall be no more than five (5) amusement machines on any single business premises and each machine must have an unobstructed allocated area of twenty (20) square feet.
- (e) Any such license shall not be transferable among owners or to different locations and shall be conspicuously posted on the licensed premises, showing the number of duly licensed machines. (Ord. of 9-27-82, Sec. 5)

Sec. 20-31. Suspension or revocation of licenses.

Any license granted under the provisions of this article may be suspended or revoked by the Municipal Officers for either a violation of, or failure to comply with, any of the provisions of this article. The determination as to the severity of the violation and whether a license suspension or revocation is warranted shall be made by the Municipal Officers after due notice to the licensee and a public hearing relative thereto. (Ord. of 9-27-82, Sec. 6)

Sec. 20-32. Right of appeal.

An appeal from any final decision of the Municipal Officers relative to issuance, denial, suspension or revocation of licenses under this article may be taken by any aggrieved party, to the Superior Court, in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure. (Ord. of 9-27-82, Sec. 7)

Sec. 20-33. Penalty for violation.

Any violation of the provisions of this article shall be subject to the one hundred dollar (\$100.00) per day general penalty provisions of Section 1-8 of the City's Code of Ordinances and all fines shall accrue to the benefit of the municipality and shall be recoverable pursuant to Rule 80-H of the Maine District Court Rules. (Ord. of 9-27-82, Sec. 8)

Sec. 20-34. Reserved.

ARTICLE IV. TRANSIENT SALES⁴⁴

Sec. 20-35. License required.

No person shall engage in the transient sale of consumer merchandise or services within the City of Westbrook without first having obtained a license from the Municipal Officers.

Sec. 20-36. Definitions.

For the purposes of this ordinance, the following special definitions shall apply, unless the context clearly implies otherwise:

- (a) *Consumer*. Any person who purchases or contracts for the purchase of merchandise or services for any purpose except for use in the ordinary course of trade or business.
- (b) *Bona fide nonprofit organization*. A bona fide nonprofit, charitable, educational, political, civic, recreational, patriotic, fraternal, or religious organization, which is organized under the provisions of 13 M.R.S.A. Sec. 901, or 13-B M.R.S.A. Sec. 201, or which is recognized as such by the Internal Revenue Service under 26 U.S. C. Sec. 501 (c) (3).
- (c) *Employee*. Any independent contractor, agent or person working for a salary or commission.
- (d) *Merchandise*. Any objects, wares, goods, promises, commodities, intangibles, services or other things of value.
- (e) *Permanent place of business*. Any building or other permanently affixed structure located within the corporate limits of the City of Westbrook, which is owned or held under a lease or rental agreement at the time that business is commenced, and is used in whole or in part for the purpose of engaging in sales of consumer merchandise.
- (f) *Person*. An individual, partnership, firm, corporation or other legal entity.
- (g) *Sale*. Any sale, transfer, exchange, barter, offer for sale, promise to sell, or attempt to sell any merchandise for cash or credit.
- (h) *Transient seller*. Any person who does not have, for the purposes of carrying on such business, any permanent place of business within this City. The term shall apply to any person otherwise denominated an itinerant dealer, peddler, street vendor, solicitor or canvasser; and it shall apply to all sales made thereby, except such sales as specifically excluded herein, whether the consumer goods are exhibited and sold from one location or in traveling from place to place.

Sec. 20-37. Application.

Applications for a license required by this article shall be procured from the City Clerk's Office, completed and signed by the applicant, filed in the Clerk's Office.

Sec. 20-38. Investigation and issuance.

⁴⁴ Art. IV, Transient Sales Ordinance adopted by Ord. of 10-07-91

When a completed application is received by the Clerk's Office the same shall be forwarded to the Chief of Police and the Code Enforcement Officer, and such other City departments as required by the Municipal Officers or other City codes. They shall proceed to investigate the compliance of the proposed transient sales with City Codes and State Law; and shall investigate such persons' business responsibility or moral character, to the extent necessary to protect the public good. Following such investigation, recommendations for approval or disapproval shall be affixed to the application, which the Clerk shall then submit to the Municipal Officers for consideration.

Sec. 20-39. Standards for issuance.

In determining whether a transient sales license should be issued, the Municipal Officers, in addition to the standards that are elsewhere set forth in this chapter and the Code of Ordinances, shall exercise the discretion vested by this article by resolving all questions in favor of the public health, safety, welfare and convenience. In so doing, they shall consider all relevant factors, including the following:

- (a) The ability of the City to enforce the provisions of this ordinance with respect to the particular business.
- (b) The manner, time and location of marketing those goods and services; and the consonance of such sales with the public health, safety, welfare and convenience.
- (c) The risks created by the transient seller, both to pedestrian and vehicular travelers, and to the rights of building owners, occupants and invitees to free and safe ingress and egress.
- (d) Past history of seller's business reputation and record of consumer complaints.

The Municipal Officers, within a reasonable period of time, shall act to approve, approve with conditions, or deny the application. The decision shall be reduced to writing and shall state the basis for the action.

Sec. 20-40. Limitations.

In addition to any restrictions imposed on a licensee by the Municipal Officers or by the Code of Ordinances, no transient sales may be conducted as follows:

- (a) Within 350 feet of any part of an establishment having a fixed location which offers for sale the same or substantially similar goods or services, when the transient seller operates from other than a fixed location on private property.
- (b) Within 350 feet of any other transient seller licensed by the City of Westbrook, when the transient seller operates from other than a fixed location on private property.
- (c) In any congested area in such a manner as to impeded the passage of pedestrians or otherwise inconvenience the public, or in such a manner as to obstruct an entrance or exit of a building.
- (d) From a fixed location on a public way, sidewalk or public place.
- (e) From any location where customers would be encouraged or required to stop in the public way.

- (f) From a motor vehicle exceeding 1 ton G.V.W., when conducted from other than a fixed location on private property.
- (g) By employing persons or equipment not designated in the license application.
- (h) By selling, offering for sale, distributing, or soliciting orders for future sale or delivery of a commodity or service not authorized.
- (i) In such a manner as to constitute an “unfair and deceptive trade practice”, a nuisance, or offense against public order, as defined by the Maine Statutes.
- (j) Between the hours of 9:00 p.m. to 8:00 a.m. except from a fixed location on private property.
- (k) By the same transient seller from the same location on private property for more than 30 days within a 12 month period.

Sec. 20-41. Exemptions.

The terms of this article shall not apply to the following:

- a. religious articles
- b. sales by a bona fide nonprofit organization
- c. sales at auctions, public fairs, expositions & bazaars
- d. sales of produce and foodstuffs at Farmers’ Market
- e. seasonal sale of Christmas trees and wreaths
- f. sales by persons holding a current sales license issued by the Municipal Officers under other provisions herein.

Sec. 20-42. License fee and term.

A license applicant, who intends to sell primarily from a fixed location on private property, shall pay a license fee of \$50.00, which shall be valid for a period of not more than 30 days from date of issuance. Such person shall be eligible for not more than two (2) transient sales licenses for a particular business or enterprise within a 12-month period. At least 30 days must intervene before a license is renewed.

A license applicant, who does not sell primarily from one location on private property, shall pay an annual license fee of \$100.00.

Secs. 20-43 – 20-49. Reserved.

ARTICLE V. MASSAGE ESTABLISHMENTS⁴⁵

Sec. 20-50. Purpose.

The purpose of this ordinance is to regulate the operation of massage establishments in order to promote the public health, safety, and general welfare.

Sec. 20-51. Definitions.

⁴⁵ Art. V, Massage Establishments adopted by Ord. of 8-03-92

- (a) *Client* is any person who receives a massage or who retains a massage therapist for that purpose.
- (b) *Massage or massage therapy* is any method of rubbing, kneading, tapping, vibrating, compressing, percussing, applying friction, or manipulating the external parts of the human body with the hands or other parts of the body or with the aid of any instrument or device.
- (c) *Massage establishment* is any business, including a sole proprietorship, in which the business operations consist of providing or making available massage in the City of Westbrook for consideration or with the expectation of receiving consideration or any gratuity, whether or not the business has a fixed place of business within the city limits.
- (d) *Massage therapist* is a person who provides or offers to provide massage for a fee, monetary or otherwise.
- (e) *Person* means an individual, partnership, corporation or other entity.
- (f) *Recognized school* is any institution of learning which has for its purpose the teaching of the theory, method, profession and work of massage therapy and is recognized or certified by the State of Maine. The term excludes those schools which do not require actual class attendance.

Sec. 20-52. License required.

- (a) No person shall operate a massage establishment without obtaining and maintaining a valid massage establishment license from the City of Westbrook.
- (b) No person shall work as a massage therapist, including one holding a massage establishment license, without having a valid massage therapist license from the City of Westbrook.
- (c) A sole practitioner who employs no other massage therapist may apply for a combined massage therapist/establishment license in lieu of obtaining both a massage therapist and massage establishment license from the City of Westbrook.

Sec. 20-53. Exemptions.

The following persons shall be exempt from this chapter if duly licensed by, and while practicing in accordance with, the laws of this State: physicians, physician's assistants, surgeons, osteopaths, nurses, chiropractors, physical therapists, barbers, and beauticians.

Sec. 20-54. Application procedure

Applications for licenses required by this article shall be procured from the City Clerk's Office, completed and signed by the applicant, and filed in the Clerk's Office.

Sec. 20-55. Proficiency required.

Each applicant for a massage therapist license shall submit with his/her application proof of basic proficiency in massage, which may be satisfied by one of the following:

- (a) Evidence of completion of a formal training course in massage therapy given by a recognized school.
- (b) Evidence of successful completion of a certifying exam given by the American Massage Therapy Association.
- (c) Evidence of having continuously practiced massage for at least one year, accompanied by professional references from doctors and/or massage therapists, which establish that the applicant is capable of administering massage in a skilled and professional manner.

Sec. 20-56. Investigation.

When a completed application is received by the Clerk's Office, the same shall be forwarded to the Chief of Police, the Code Enforcement Officer, and such other City departments as required by the City Codes or by the Municipal Officers. They shall proceed to investigate such person's business reputation and moral character to the extent necessary to protect the public good. Following such investigation, recommendations for approval or disapproval shall be affixed to the application, which the Clerk shall then submit to the Municipal Officers for consideration.

Sec. 20-57. Standards for denial, suspension or revocation.

The Municipal Officers, in addition to other provisions of this Code authorizing such action, may deny, suspend, or revoke a license upon one or more of the following grounds:

- (a) There has been a failure to fully complete the application forms or to pay any fee required hereunder; an incorrect statement of material fact has been made knowingly on such form; or there has been a knowing omission of material fact or additional documentation required or reasonably necessary to determine whether such license is issuable.
- (b) The applicant has been convicted of a felony or a crime of moral turpitude within five years of the date of application or during the term of any license issued hereunder.
- (c) The applicant's business and professional reputation have been the source of client complaints.
- (d) The massage establishment, massage therapist, or clients thereof, have caused, or likely will cause, a breach of the peace.
- (e) The licensee or clients have or will substantially and adversely affect the peace and quiet of a neighborhood.
- (f) The licensee has violated any provision of this Code in the course of operating a massage establishment or conducting massage, which event would have been the basis for denying the license originally.
- (g) The applicant's or licensee's real estate and personal property taxes, registration fees, sewer and other charges associated with the business are in arrears with the City of Westbrook.
- (h) Failure to notify the Clerk of any change of material fact set forth in the license application.

- (i) Permitting any person to perform massage therapy without a license to do so or otherwise allowing an employee or other massage therapist to violate any provision of this article on the premises of the establishment or in the course of conducting business.
- (j) Knowingly participating in or permitting any violation of Title 17-A M.R.S.A. Sections 251, and 851 through 855.

Sec. 20-58. Restrictions.

In addition to any limitations imposed on a licensee by the Municipal Officers or by the Code of Ordinances, the following shall apply throughout the term of any license:

- (a) No massage therapist shall administer, or be allowed to administer, a massage to a client whose genitals are showing.
- (b) No massage therapist shall engage in, agree to, or be permitted to administer a massage to the genitals or anus of a client.
- (c) No massage therapist shall administer or be permitted to administer a massage unless he or she is fully clothed in non-transparent clothing.
- (d) No person, to his own or another's benefit, shall made use of a license which has not been duly issued to them.
- (e) A valid massage establishment license shall be conspicuously displayed at all times in the place of business. A valid massage therapist license must be readily available upon demand.
- (f) All massages shall be administered on a massage table, treatment table, or treatment mat.
- (g) Every person who operates or conducts business in a massage establishment shall keep the premises, equipment, and supplies in a clean and sanitary condition.
- (h) A massage establishment shall keep a written list of all employees and their current addresses, which list shall be shown to the Chief of Police or City Clerk upon request.
- (i) No massage establishment shall be kept open for massage purposes between the hours of 12 midnight and 6 a.m.

Sec. 20-59. Enforcement.

The violation of any provision of this Ordinance shall be punishable by a fine of Two Hundred and Fifty Dollars (\$250.00 for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the City may enjoin or abate any villation by appropriate legal action.

Sec. 20-60. License term.

Licenses issued pursuant to this Ordinance shall be valid for a term of one year from the date of issuance.

Sec. 20-61. License fees.

The fees for licenses issued under this article shall be as follows:

Massage Establishment	\$65.00
Massage Therapist	\$45.00
Combined Massage Therapist/Establishment*	\$65.00

Said fees shall be paid at the time of application and are non-refundable.

1. sole practitioner

Sec. 20-62 – 20-70. Reserved.

**ARTICLE VI. ORDINANCE REGULATING THE MANNER OF SALE OF
TOBACCO PRODUCTS⁴⁶**

Sec. 20-71. Title.

This ordinance shall be known as the Regulation to Protect Children from Illegal Tobacco Sales Ordinance.

Sec. 20-72. Findings and Purposes.

The Westbrook City Council does hereby find that:

- (a) Substantial scientific evidence exists that the use of tobacco products causes cancer, heart disease, and various other medical diseases. The Surgeon General of the U.S. has found that tobacco-caused diseases are the leading cause of premature, preventable death and disability in the U.S.;
- (b) The National centers for Disease Control have found that at least four hundred thirty-four thousand (434,000) Americans die each year from tobacco-caused diseases. The Surgeon General of the U.S. and the U.S. Department of Health and Human Services have found that a majority of those Americans who die of tobacco caused diseases became addicted to nicotine in tobacco products as adolescents before the age of legal consent;
- (c) The National Institute on Drug Abuse has concluded that the nicotine in tobacco products is a powerful addictive drug and identify nicotine addiction as the most widespread example of drug dependence in the U.S.;
- (d) The Surgeon General of the U.S. has found that nicotine in tobacco products is as addictive as cocaine and heroin; and
- (e) The National Institute on Drug Abuse has found that tobacco use by adolescents precedes and is predictive of adolescent illicit drug use.

Accordingly, the Westbrook City Council finds and declares it in the public interest to:

⁴⁶ Ord. of 2-21-95

1. License tobacco vendors, including tobacco vending machines;
2. To prohibit self-service sales, self-service displays, racks and shelves of tobacco products except in those premises to which access by minors is not allowed;
3. Require the posting of warning signs at the point of purchase stating the legal age of sale and that identification is required to purchase tobacco products;

The Westbrook City Council further finds it is within its basic police power to implement and enforce the provisions of this ordinance.

Sec. 20-73. Definitions.

The following words and phrases, whenever used in this article, shall be construed as defined in this section:

1. *Business* means any sole proprietorship, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered in the City of Westbrook.
2. *Exempt Business* means any business except tobacco specialty stores that does not allow anyone under eighteen years of age to enter unless accompanied by an adult. These establishments will be exempt from the ordinance as written.
3. *Person* shall mean any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
4. *Self-service merchandising* means open display of tobacco products and point-of-sale tobacco products that the public has access to without the intervention of an employee.
5. *Tobacco product* means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing inhalation or other manner of ingestion.
6. *Tobacco retailer* shall mean any person or governmental entity that operates a store, stand, booth, concession, or other place at which sales of tobacco products are made to purchasers for consumption or use in the City of Westbrook.
7. *Vendor assisted* means any automated, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.
8. *Vending machine* means any automated, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarettes or any other tobacco product.
9. *Tobacco specialty store* shall mean a tobacco retailer whose business exclusively or primarily involves the sale of tobacco products and related goods.

Sec. 20-74. Regulation of Manner of Sale of Tobacco Products.

- A. Any person, business, tobacco retailer, or other establishment subject to this ordinance, shall post plainly, visible signs at the point of purchase of tobacco products which state, **“THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW. VALID ID IS REQUIRED TO PURCHASE TOBACCO. IF YOU WITNESS ANY CLERK IN THIS ESTABLISHMENT SELLING TOBACCO PRODUCTS TO A MINOR, PLEASE CONTACT THE WESTBROOK POLICE DEPARTMENT.**
- B. No person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this ordinance shall sell or permit to be sold any tobacco product to an individual without requesting and examining identification establishing the purchaser’s age as eighteen years or greater unless the seller has some reasonable basis for determining the buyer’s age.
- C. It shall be unlawful for any person, business, or tobacco retailer, except tobacco specialty stores which do not allow persons under the age of eighteen (18) to enter the premises, to sell, permit to be sold, offer for sale or display for sale any tobacco product by means of self-service merchandising.
- D. All tobacco specialty stores and all tobacco retailers including establishments that have tobacco vending machines and are open to the public under eighteen years of age will obtain a tobacco vendor’s license from the City of Westbrook and will openly display the license.

Sec. 20-75. Enforcement.

- A. Enforcement of this ordinance shall be the responsibility of the Chief of Police or his or her designee.
- B. Any citizen who desires to register a complaint under this ordinance may initiate a complaint with the Westbrook Police Department. The Chief of Police shall notify, and keep a record of notice, any establishment subject to this ordinance of all citizen complaints under this ordinance regarding apparent violation of this ordinance by said person, tobacco retailer, or any owner, manager or operator of any establishment subject to this ordinance.
- C. Notwithstanding any other provisions of this ordinance, a private citizen may bring legal action to enforce this ordinance.

Sec. 20-76. Violations and Penalties.

- A. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to this ordinance to fail to comply with any of its provisions.
- B. Any person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this ordinance shall have the following responsibilities:
 - (1) to post plainly visible signs at point of purchase stating the sale of tobacco products to persons under the age of eighteen is prohibited by law and valid identification is required to purchase tobacco;

- (2) to request identification from any person buying tobacco products which shows the purchases is of legal age unless the seller has some reasonable basis for determining the buyer's age.
 - (3) To eliminate self-service merchandising of tobacco products except for tobacco specialty stores which do not allow persons under the age of eighteen (18) to enter the premises.
 - (4) To openly display tobacco vendor's license.
- C. Any person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this ordinance who violates any provision of this ordinance shall be deemed guilty of an infraction, punishable by:
- (1) First violation, a fine, not exceeding one hundred dollars (\$100.00).
 - (2) Second violation within one year, a fine, not exceeding two hundred dollars (\$200.00).
 - (3) For a third violation within one year, revocation of tobacco products license for a period of thirty (30) days.
 - (4) The fourth violation within one year will result in the revocation of tobacco products license for a period of one (1) year.

Sec. 20-77. Non-Retaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such employee or applicant agrees to abide by the provisions of this ordinance.

Sec. 20-78. Other Applicable Laws.

This article shall not be interpreted or construed to permit tobacco vending machines and distribution of tobacco product samples where they are otherwise restricted by other applicable laws.

Chapter 21
MOBILE HOMES AND MOBILE HOME PARKS⁴⁷

Art. I	In General, Secs. 21-1 – 21-14
Art. II	Mobile Home Park Rent Justification, Secs. 21-15 – 21-20

ARTICLE I. IN GENERAL

Sec. 21-1. Definitions.

Mobile home. A vehicular, portable structure built on chassis of which wheels are an intrinsic part and are designed to remain so, and said structure being designed to be used without a permanent foundation as a dwelling for one or more persons, and provided with a toilet and a bathtub or shower. A mobile home shall contain not less than 450 square feet of floor area.

Mobile home lot. That parcel of a mobile home park that provides facilities for long term occupancy of a mobile home and designed for the exclusive use of its occupants.

Mobile home park. A contiguous parcel of land that has a minimum area of twenty-five (25) mobile home lots, which are to be rented or leased – not sold.

Mobile home stand. That part of an individual mobile home lot which has been reserved for the mobile home.

Permit, license. These words are used interchangeably. (Ord. of 10-06-70, Sec. 1)

Editor's note – The words, terms and phrases defined in Sec. 21-1 were alphabetized by the editors to facilitate reference and use.

Sec. 21-2. General provisions.

- (a) No mobile home shall be permitted to locate in a duly licensed mobile home park which does not meet the minimum standards set forth in publication A 119.1 of the United States of America Standards Institute dated 1969, as amended and subsequent revisions.
- (b) Mobile home parks will be authorized for development only in zones where permitted by the Zoning Ordinance of the City of Westbrook.
- (c) This chapter shall not apply to unoccupied mobile homes held by dealers as stock-in-trade for sale or resale, or to mobile homes that are temporarily stored in buildings or garages or not visible from any public street or way, so long as they remain unoccupied.
- (d) This chapter shall not fully apply to any mobile home park established prior to its effective date; provided however that the permit fees and all the health and sanitation requirements herein set forth (Section 21-6 (E) (2) and (F)) shall be applicable to such

⁴⁷ **Editor's note** – Ord. of October 6, 1970, Secs. 1-9, did not expressly amend this code, hence inclusion herein as Ch. 21, Secs. 21-1 – 21-9, was at the discretion of the editors. Sec. 10, validity and repealer provisions, was not codified; otherwise, said ordinance is set out as enacted.

Cross references – Buildings generally, Ch. 6; electricity, Ch. 11; fire protection and prevention, Ch. 13; garbage and rubbish, Ch. 16; housing, Ch. 17; plumbing, Ch. 25; sewers and drains, Ch. 26; streets and sidewalks, Ch. 29; subdivisions, Ch. 30; zoning, Part III.

existing mobile home parks, and they shall not be altered or extended except in conformance with all the provisions of this chapter.

- (e) Mobile home parks shall be located on a well-drained site properly graded to insure rapid drainage and freedom from stagnant pools of water. The site shall not be exposed to objectionable smoke, noise, odors or any other adverse influences, and no portion subject to unpredictable sudden flooding subsidence or erosion shall be used for any purpose, which would expose persons or property to hazards. Site planning should utilize terrain, existing trees and shrubs and rock formations. A stylized pattern should be avoided; innovative park design is encouraged and provided for in Section 21-8 of this chapter.
- (f) A minimum of twenty-five (25) mobile home lots shall be completed and provided with all utilities, streets, and sidewalks as required by this chapter before occupancy of the mobile home park shall be permitted.
- (g) A mobile home park shall not exceed a net residential density of six (6) mobile homes per acre.
- (h) The mobile home stand shall provide for practical placement on and removal from the lot of the mobile home and retention of the home on the lot in a stable condition and in satisfactory relationship to its surroundings. (Ord. of 10-06-70, Sec. 2)

Sec. 21-2.1. Mobile home standards and installations generally.

All mobile home units or structures shall meet the minimum standards set forth in Publication A 119.1 of the United States American Standards Institute, dated 1971, and subsequent revisions, and unless located in a mobile home park must comply with the following installation requirements before they can be used or occupied as a building:

- (a) The wheels and undercarriage must be removed and the mobile home must be placed on a foundation as specified in subsections (1) or (2) below.
 - (1) Wall-type foundation consisting of ten (10) inch thick poured concrete wall supported by a twenty (20) inch wide by ten (10) inch deep footing; the top of which is at least four and one-half (4 ½) feet below grade.
 - (2) Slab-type foundation consideration of six (6) inch reinforced concrete slab on top of three (3) foot compacted and drained between the concrete and the subbase. A masonry wall, mortared or solid, must be constructed between the slab and the mobile home.
- (b) Either type of foundation enumerated in subsections (1) and (2) above must be vented. The wall-type foundation must have perimeter footing drains, and the gravel base of the slab-type foundation must have under drains. All such drains must be connected to the municipal storm sewer system or other appropriate drainage way approved by the building inspector.
- (c) An accessory building must be provided for storage and the fuel tank must be screened from view.
- (d) The exterior wall of all additions to the mobile home must be constructed of the same material and have the same appearance as the mobile home. (Ord. of 12-27-71)

Editor's note – Ordinance of December 27, 1971, amended this Code by adding Sec. 5-2.1, which section was redesignated as Sec. 21-2.1 by the editors for purposes of classification.

Sec. 21-3. Permit required.

No person, firm or corporation shall establish, conduct, maintain or operate a mobile home park unless such person shall first obtain a permit issued annually by Building Inspector. Existing mobile home parks must apply for and be granted a permit prior to July 1, 1971.

- (a) The Building Inspector, upon written application of any person, may issue or renew mobile home park permits to any such person upon compliance with the provisions of this chapter. The fee therefor shall be fifty dollars (\$50.00), renewable annually on the first day of January.
The applicant shall file with the application, proof of ownership of the premises or of a lease or written permission from the owner.
- (b) Initial application for new or existing mobile home parks shall be accompanied by a preliminary plan in accordance with Section 21-4(A) of this chapter.
- (c) The application for a permit to operate a new mobile home park or to expand any existing mobile home park shall be subject to the prior approval of the park design by the Planning Board. Existing mobile home parks may be issued a permit by the Building Inspector provided such parks conform with all the health and sanitation requirements, referred to in Section 21-2 (e) of this chapter, even though such existing parks do not meet the design standards hereinafter set forth in this chapter, however, no existing mobile home park may be expanded until detailed plans are submitted to and approved by the Planning Board for the upgrading of the entire mobile home park in accordance with the provisions of this chapter.
- (d) The making of extensions or alterations without prior approval of the Building Inspector shall be cause of immediate revocation of the mobile home park permit. (Ord. of 10-06-70, Sec. 3)

Sec. 21-4. Procedure for the submission and approval of plans.

(A) PRELIMINARY PLAN:

- (1) *General.* A preliminary plan of a mobile home park shall be submitted to the Planning Board by the mobile home park developer. The Planning Board shall request a report from the City Engineer in regard to grades, feasibility of drainage and sewerage, and character of road surfacing. The submission of such a preliminary plan will enable the developer, the Planning Board, other municipal agencies, and owners of property abutting the proposed or existing mobile home park to discuss and clarify the details of the development before a definitive plan is prepared. In submitting a preliminary plan, the developer shall give written notice by delivery or registered mail, to the City Clerk, stating the date of submission of such preliminary plans.
- (2) *Contents.* The preliminary plan shall be drawn on tracing paper at a suitable scale; three (3) prints shall be filed with the Planning Board. Said preliminary plans shall show sufficient information about the development to form a clear basis for discussion of its various aspects and for the preparation of the definitive plan. Such plan shall be clearly labeled as preliminary plan. The preliminary plan shall show the following information:

- (a) Development name, boundaries, north point, date and scale.
- (b) Names of the record owner, developer, and designer, engineer or surveyor.
- (c) Names of all abutters as they appear in the most recent tax list.
- (d) Existing and proposed lines of streets, ways, easements and any public areas within the development (in general manner).
- (e) Approximate boundary lines of proposed lots, with approximate areas and dimensions of each.
- (f) Names, approximate locations, and widths of adjacent streets.
- (g) Topography of the land (in a general manner).
- (h) Layout of storm drainage, water supply and sanitary sewer systems.

It is recommended that, before submitting plans for preliminary approval, the developer consult with the City Engineer of the City of Westbrook, the Portland Water District and the sewerage division of the City of Westbrook regarding their requirements.

- (3) Tentative approval. When a preliminary plan is submitted, the Planning Board shall give such preliminary plan its tentative approval, with or without modification or its disapproval within thirty (30) days from the date of submission. Such tentative approval does not constitute the approval of any definitive plan that may be developed and submitted subsequently.

(B) DEFINITIVE PLAN:

- (1) *General.* Upon submission of a definitive plan of a mobile home development to the Planning Board for approval, the developer shall file with the Planning Board the following:
 - (a) A transparent master copy of all sheets comprising the definitive plan, a reproduceable copy and three (3) clearly legible contact prints thereof. The original drawing or master copy, whichever is submitted, will be returned after approval or disapproval. The reproduceable copy and contact prints become the property of the City of Westbrook.
 - (b) A properly executed application including a statement of the time within which the required construction of ways and installation of municipal services will be completed. The time shall not be greater than two (2) years from the date of approval of the definitive plan unless subsequently extended by the Planning Board in writing.
 - (c) An agreement to pay costs for advertising for public hearing for postage of mailed notices of public hearing. Check shall be payable to the Treasurer of the City of Westbrook.
 - (d) A certified check in the amount totaling thirty dollars (\$30.00) for each boundary monument shown on the definitive plan and as required by these regulations, which amount shall be refunded after submission of a certificate from a surveyor acceptable to the Planning Board, certifying that boundary monuments have been accurately installed.
 - (e) A certified check in the amount of two hundred fifty dollars (\$250.00) as security for the later submission to the Planning Board of an accurate record

plan and profile (original ink drawings on linen or transparent copies on linen of drainage lines and structures, water mains and appurtenances) as actually installed with sufficient ties for proper identification. Upon acceptance by the Planning Board of the required plans, the amount deposited shall be refunded. The applicant shall file by delivery or registered mail a notice with the City Clerk stating the date of submission for such approval, accompanied by a copy of the completed application. The installation of utilities and the construction of the way or ways specified on the definitive plan must conform to the requirements of the City Engineer of the City of Westbrook, the Portland Water District and the sewerage division of the City of Westbrook. Therefore, it is respectfully recommended that the developer consult with the aforementioned or any other prior to drafting the final plans for submission.

- (2) *Contents.* The definitive plan shall be prepared by an engineer or land surveyor. If the definitive plan requires design of public works facilities such as streets, storm drainage system, sanitary systems, and so forth, the design and supervision of construction shall be performed by a registered professional engineer of the State of Maine. The definitive plan shall be submitted as an original, clearly and legibly drawn with black India ink upon tracing cloth or as a reproduceable copy on tracing cloth. The plan shall be at a scale of one inch equals forty feet (1" = 40') or such other scale as the Planning Board may accept in order to show details clearly and adequately. Sheet sizes shall preferably not exceed twenty-four inches by thirty-six inches (24" x 36"). If multiple sheets are used, they shall be accompanied by an index sheet showing the entire mobile home development. The definitive plan shall contain the following information:
 - (a) Development name, boundaries, north point, date, scale, zone of development and abutting land and locus map showing assessor's map and lot number.
 - (b) Name and address of record owner, developer, and engineer of surveyor.
 - (c) Names of all abutters as they appear in the most recent tax list.
 - (d) Lines of existing and proposed streets, ways, lots, easements (including purposes for which such are established) and public or common areas within the development. The proposed names of streets shall be shown in pencil until approved by the Planning Board.
 - (e) Sufficient data to determine the location, direction, and length of every street and way line, lot line, and boundary line, and to establish these lines on the ground. Boundary surveys shall be tied to the Maine Coordinate System.
 - (f) Location of all permanent monuments properly identified as to whether existing or proposed.
 - (g) Location, names and present widths of streets bounding, approaching or within reasonable proximity of the development.
 - (h) Suitable space to record the action of the Planning Board and the signatures of the members of the Planning Board (or such persons as are officially authorized).
 - (i) Existing and proposed topography at a suitable contour interval and areas with poor drainage, as required by the Planning Board.

- (j) Either on the same sheet as the plan of the new way or ways or on a separate sheet or sheets, the existing profile on the center line and on both exterior lines and the proposed profile on the center line of the new way at a horizontal scale of one inch equals forty feet (1" = 40'), and a vertical scale of one inch equals four feet (1" = 4'), or such other scale acceptable to the Planning Board. All elevations shall refer to mean sea level.
 - (k) Proposed layout of storm drainage, water supply, fire hydrants and sanitary sewer systems (in accordance with specifications of the sewerage division of the City of Westbrook and the Portland Water District).
 - (l) Either on the same plan or a separate plan, show the outlines of mobile home stands and existing or proposed buildings as well as all existing and new trees, planting, lawn areas, and any other information necessary to indicate lawn areas, and any other information necessary to indicate the extent of planting.
 - (m) Benchmarks and ties to the Maine Coordinate System shall be furnished by the Office of the City Engineer to the developer's engineer to within one thousand (1,000) feet of the proposed development.
- (3) *Performance guarantee.* Before approval of a definitive plan of development, the developer shall agree to complete the required improvements specified in Section 21-6. The Planning Board shall require that completion of such construction be secured by the following procedure:

Final approval with bonds or security. The developer shall either file a performance bond with corporate surety duly authorized to write surety bonds and regularly engaged in such business or deposit money or negotiable securities in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements specified in Section 21-6. The amount of the bond or deposit shall be based upon cost estimates or required work approved by the city Engineer. The bond or security shall not be released by the Planning Board until it has established that the work required has been completed in accordance with the approved plans and has been inspected and found satisfactory according to the standards hereinafter established. The amount of the security or the penal sum of any such bond may, from time to time, be reduced by the Planning Board, and the obligations of the parties thereto released in whole or in part by said board, provided that any reduction or release shall be commensurate with the portion of the work completed. Bond is required before any work can be started and before any lot can be leased or rented.

- (4) *Review by City Engineer.* Before a mobile home development may be approved by the Planning Board, the City Engineer shall submit a report to the Planning Board with respect to the grades, feasibility of drainage and sewerage, and character of the road surfacing.

If the City Engineer questions whether any part of the land in the development can be used as a building site without endangering the health and welfare of the occupants because of conditions of flooding or inadequate sewage disposal or water supply, he shall so notify the Planning Board in writing. Any approval of the plan by the Planning Board shall then only be given on condition that the land

as to which such questions exists shall not be built upon or occupied without prior consent of the City Engineer; said condition shall be recorded on the plan specifying the lots or land to which it applies.

Any lot so located that it cannot be served by a connection to a public sewer system shall be provided with a source of water satisfactory to the Planning Board. Before granting approval to a plan including such lots, the Planning Board shall establish whatever requirements are necessary in order to ensure a suitable water supply. The Planning Board may request a report from the health department or officer of the City of Westbrook in regard to the suitability of such water supply.

- (5) *Public Hearing.* Before approval of the definitive plan is given, a public hearing shall be held by the Planning Board, notice of which shall be given at the expense of the applicant at least ten (10) days prior thereto by advertisement in an official publication, or in a newspaper of general circulation in the City of Westbrook. Copies of said notices shall be mailed by the Planning Board by certified mail at the expense of the applicant to the applicant and to owners of land within five hundred (500) feet of any portion of the land included in such plan, as appearing in the most recent tax list.
- (6) *Lot size and set back requirements.*
 - (a) Each individual mobile home lot shall be not less than seven thousand (7,000) square feet in area, and shall be not less than seventy (70) feet wide and one hundred (100) feet deep. Each corner shall be clearly marked with an iron, or other permanent marker.
 - (b) No mobile home shall be located less than twenty (20) feet from the side and rear lines of an individual mobile home lot, and there shall be a minimum side and end clearance of forty (40) feet between adjacent mobile homes.
 - (c) No mobile home shall be located closer than twenty (20) feet from the side and rear lines of an individual mobile home lot, and there shall be a minimum side and end clearance of forty (40) feet between adjacent mobile homes.
 - (d) All mobile homes shall be located at least one hundred (100) feet from all mobile home park boundary lines.
- (7) *Certificate of approval.* The action of the Planning Board in respect to the definitive plan shall be by vote, copies of which shall be certified and filed with the City Clerk and sent by delivery or registered mail to the applicant. If the Planning Board in respect to the definitive plan shall be by vote, copies of which shall be certified and filed with the City Clerk and sent by delivery or registered mail to the applicant. If the Planning Board modifies or disapproves such plan, it shall state in its vote the reasons for its actions. Approval, if granted, shall be endorsed on the definitive plan finally accepted by the signatures of a majority of the Planning Board or by the signatures of the persons officially authorized by the Planning Board.

The failure of the Planning Board to issue a written notice of its decision directed to the applicant, within sixty (60) days after the definitive plan has been submitted constitutes its disapproval. An appeal may be taken from the decision of the Planning Board to the superior court as provided in Title 30 of the Maine Revised Statutes. The approval of a development shall be based on its compliance with

municipal ordinances, including the provisions herein, and its general reasonableness. Final approval of the definitive plan does not constitute the laying out or acceptance by the City of streets within the mobile home park.

- (8) *Record plan of utilities.* An accurate record plan and profile shall be submitted to the Planning Board after completion of the construction, showing drainage lines and structures, water mains and appurtenances, as actually installed with sufficient ties for proper identification, within one year after completion. (Ord. of 10-06-70, Sec. 4)

Sec. 21-5. Design standards.

(A) STREETS:

- (1) *Location and alignment.*
 - (a) All streets in the mobile home development shall be designed so that they will provide safe vehicular travel and convenient access from abutting public street or roads to each mobile home lot. Due consideration shall also be given by the developer to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the development.
 - (b) The proposed mobile home park streets shall conform in so far as is practicable to the master or study plan as adopted in whole or in part by the Planning Board.
 - (c) Provisions satisfactory to the Planning Board shall be made for the proper projection of mobile home park streets, or for access to adjoining property, which is not yet subdivided or developed.
 - (d) Reserve strips prohibiting access to new ways established under this chapter from adjoining property in the same or different ownership shall not be permitted, except where such stripes shall be determined to be in the public interest.
 - (e) Street jogs at intersections with centerline offsets of less than one hundred and twenty-five (125) feet shall be avoided.
 - (f) The minimum centerline radius of curved streets shall be one hundred and twenty-five (125) feet. Greater radii may be required for principal streets.
 - (g) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty (60) degrees.
 - (h) Mobile home park lot lines at street intersections shall be rounded or cut back to provide for a lot line radius of not less than twenty (20) feet. Greater radii may be required by the Planning Board where deemed necessary for present and future vehicular travel.
- (2) *Width.* The minimum width of rights-of-way of streets shall be fifty (50) feet.
- (3) *Street cross section.* All streets shall have the following:
 - (a) Two (2) ten (10) foot lanes for travel.
 - (b) Two (2) eight (8) foot lanes for parking; one such lane may be omitted on one side of the new way in instances in which the Planning Board determines that the probable volume of traffic is sufficiently low as to make it reasonable to restrict parking to one side of the street only.

- (4) *Grade*. Grades of streets shall not be less than five-tenths percent (0.5%) nor more than six percent (6%) except where the Planning Board determines a greater grade is required due to unusual topographic conditions in which case grades up to twelve percent (12%) may be permitted.
 - (5) *Dead-end streets*. The use of dead-end streets in any development shall be kept to an absolute minimum and they shall conform to the following provisions:
 - (a) The maximum length shall be one thousand (1,000) feet.
 - (b) Dead-end streets shall be provided at the closed end with a turn-around having an outside diameter of not less than one hundred (100) feet. The width of the paved roadway may be reduced within the turn-around to twenty-two (22) feet. Other provisions for the turning around may be used with the approval of the Planning Board.
 - (6) *Street Names*. Street names shall be subject to the approval of the Planning Board.
- (B) **EASEMENTS:**
- (1) Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least twenty (20) feet wide.
 - (2) Where a development is traversed by a watercourse, drainage-way, channel or stream, the Planning Board may require that there be provided a storm water easement or drainage right-of-way of adequate width to conform substantially to the lines of such a watercourse, drainage-way, channel or stream.
- (C) **OPEN SPACE:**
- Before approval of a plan, the Planning Board shall require a developer to establish a park or recreation area suitably located so as to serve the development. The area of such park and recreation facilities shall be reasonably related to the land being developed, the proposed use of such land, and the intensity of such use. Not less than eight percent (8%) of the gross mobile home park area shall be devoted to park and recreational use. Recreational facilities shall include playgrounds and may include swimming pools and community buildings. Drinking fountains shall be provided in or near park or play areas.
- (D) **PROTECTION OF NATURAL RESOURCES:**
- Due regard shall be shown for the preservation of all natural features, such as large trees, watercourses, bodies of water, scenic points, historic spots, unusual topographical features, and similar community assets, which, if preserved, will add attractiveness and value to the mobile home park development.
- (E) **OFF-STREET PARKING:**
- Off-street parking in all mobile home parks shall be furnished at the rate of at least 1.5 car spaces for each mobile home. Parking spaces shall be paved and shall be located at a distance not to exceed two hundred (200) feet from the mobile home that it is intended to serve. Each space shall be at least nine (9) feet by twenty (20) feet ((‘ x 20’) long. (Ord. of 10-06-70, Sec. 5)

Sec. 21-6. Required improvements in an approved mobile home park.

The Maine State Highway Commission specifications, current revision, as modified by the office of the City Engineer or herein, shall be used as minimum specifications to be submitted for approval to the Planning Board.

(A) STREETS AND ROADWAYS:

- (1) The area of each right-of-way shall be first cleared of all stumps, roots, brush and perishable materials, except trees, shrubs and so forth intended for preservation.
- (2) All loam, loamy material, and clay shall be removed from the full length and width of the street, inclusive of sidewalks, to such depths as may reasonably be required by the City Engineer.
- (3) All streets shall be brought to a finished grade as shown on the profiles of the definitive plan with gravel as specified below to a width of thirty-six (36) feet, or to such width as is approved by the Planning Board. Crown shall be a minimum of one-fourth ($\frac{1}{4}$) inch per foot.
- (4) The entire area of the roadway shall be graded to a subgrade of not less than twelve (12) inches below the finished grade as shown on the plan, profile, and cross section hereinbefore mentioned.

Any fill in subgrade shall be of a subsoil of good bearing characteristics, free from loam, vegetation, decayed matter, peat or other comprehensive material. Large rocks and boulders shall not be used where the diameter of the boulder is greater than one-half ($\frac{1}{2}$) of the depth of the fill, nor shall boulders be used near the surface of the subgrade. Fill in subgrade shall be placed in layer of twelve (12) inches thickness wherever practicable; each layer shall be well compacted.

- (5) The base course shall be a minimum of twelve (12) inches compacted in thickness of gravel borrow consisting of hard, durable graded stone and course and practically free from loam and clay uniformly graded and containing no stone having any dimension greater than two and one-half ($2\frac{1}{2}$) inches. Grading of gravel shall conform to the requirements of the City Engineer.
- (6) The pavement surface shall consist of a minimum of two (2) inches of hot bituminous pavement, grading "C" per State of Maine Specifications. No bituminous [paving] shall be done during rainy weather or when weather conditions as to temperature or otherwise are, in the opinion of the City Engineer, unfavorable for obtaining satisfactory results. The wearing surface shall be allowed to seal for twenty-four (24) hours without traffic.
- (7) Adequate disposal of surface water shall be provided. Catch basins shall be built in conformity with specifications of the City Engineer. Drain lines shall be installed to conduct surface water to stream courses or other drainage outlets permanently secured by proper legal documents.

(B) SIDEWALKS:

- (1) Sidewalks may be required on both sides of each new way except where in the judgment of the Planning Board, the projected use does not require sidewalks on more than one side. Sidewalks within the mobile home park shall be of not less

than three (3) feet in width. In general, the finished grade shall be at least six (6) inches above the adjacent roadway. The entire area of the sidewalk shall be graded to a subgrade of not less than ten (10) inches below the finished grade and shall be graded with at least eight (8) inches of gravel thoroughly compacted. Wearing surface shall be of suitable material approved by the City Engineer and the Public Works Department.

- (2) Paved walkways not less than two (2) feet in width shall connect each mobile home stand to a paved sidewalk, to a paved parking area, to a paved street, or to a paved driveway connecting to a paved street. Walkways may be of paving stone, brick pavers, or concrete block to facilitate relocation.

(C) CURBING:

- (1) Curbing shall be required on both sides of all streets. Bituminous concrete, granite or 2,500 p.s.i. concrete curb shall be provided. Granite or concrete may be required where, in the judgment of the Planning Board and City Engineer, such curbs are necessary to prevent damage to curbing or to control erosion. Curbing shall conform to the specifications of the Public Works Department. Paving and base construction shall be extended the full width under bituminous concrete curbing.
- (2) Concrete curbing may be either pre-cast or poured in place, with expansion joints at least every twenty (20) feet. Granite and concrete curb shall have cross sections conforming to the specifications of the Public Works Department and shall be set on at least eight (8) inches of compacted bank gravel. Air entrainment shall be used for concrete. Sloped granite curbing may be used with cross section of approximately four inches by twelve inches (4" x 12").

(D) PLANTING SPACES:

Planting spaces or esplanades of at least three (3) feet in width may be provided on both sides of the roadway except where in the judgement of the Planning Board projected use does not require such planting spaces. They shall be graded with at least eight (8) inches of compacted loam. Seeding with lawn grass shall be done after building construction has been completed on the particular lots adjacent.

(E) UTILITIES:

- (1) *Water Supply.*
 - (a) Where public water service is available, water pipes and related equipment, such as hydrants, and main shut-off valves, shall be constructed to serve all lots one each street in the mobile home park in conformity to specifications of the Portland Water District, and the City of Westbrook. A water main of at least eight (8) inches in diameter shall be installed in the street.
 - (b) A water main of less than eight (8) inches in diameter may be approved as provided in the ordinance entitled "Laying Out and Acceptance of Streets and Ways as Public Streets". Water service lines shall be extended from the main to each property line before the street is surfaced. Shut-off valves to each lot shall be located in the planting spaces within the right-of-way. All utility trenches shall be filled with bank gravel, carefully compacted. Such

pipes and related equipment shall either be installed by the Portland Water District or be of specifications approved by said district.

- (c) When a public water supply is not available, a private supply may be developed and used subject to approval by the City Health Officer and State Department of Health and Welfare.
 - (d) The water supply shall be capable of delivering a minimum of 150 gallons per day per mobile home.
 - (e) Every well or suction line of the water supply system shall be located and constructed in such a manner that neither underground nor surface contamination will reach the water supply from any source.
 - (f) The water supply system shall be connected to all mobile homes, buildings, and other facilities requiring water in such a manner as to prevent freezing of the pipes. The mobile home connection shall consist of a riser terminating at least four (4) inches above the ground surface, with two (2) three-quarter (3/4) inch valve outlets. The outlets shall be threaded so that a connection can be made from one outlet to the mobile home water piping system and the other connection can serve a garden hose.
 - (g) All water piping, fixtures and other equipment shall be constructed and maintained in accordance with all applicable state and local regulations and shall be of a type and in locations approved by the Building Inspector.
- (2) *Sewage.*
- (a) Where public mains are available, sanitary sewer lines and related equipment, such as manholes and connecting Y's shall be constructed to serve all lots on each street in the development in conformity to specifications of sewerage division of the City of Westbrook. Sewer lines shall be extended from the main to each lot line before the street is surfaced. Such sewer lines and related equipment shall either be installed by the sewerage division of the City of Westbrook or to specifications approved by said division.
 - (b) A mobile [home] park, any part of which is further than five hundred (500) feet from an existing public sewer with available capacity and which does not connect with the public sewer must be provided with an approved private sewage disposal system as defined in the Maine State Plumbing Code, as amended, and in conformance with the Zoning Ordinance of the City of Westbrook, Section VII (C). It shall be of specifications satisfactory to the Planning Board and to the City Engineer.
 - (c) Each mobile home lot shall be equipped with at least a three (3) inch sewer connection located so as to provide a suitable connection from the home with a continuous grade which is not subject to surface drainage. Provisions shall be made to plug the connection when a mobile home does not occupy the space.
- (3) *Electrical and Communication Distribution System.*
- (a) Every mobile home park shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances, which shall be installed and maintained in accordance with all applicable State and local codes and regulations governing such systems. All facilities shall be approved by the Electrical Inspector.

(b) Wherever soil conditions permit, all electrical and communication distribution facilities may be located underground.

(c) Adequate lights shall be provided to illuminate streets, driveways, and walkways for the safe movement of vehicles and pedestrians at night.

(F) REFUSE AND GARBAGE DISPOSAL:

(1) The storage, collection, and disposal of refuse and garbage in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

(2) All refuse shall be stored in flytight, watertight, rodent-proof containers, which shall be located not more than 150 feet from any mobile home lot. Containers shall be provided in sufficient number and capacity to properly store all refuse garbage in separate containers.

(3) Refuse and garbage collection stands shall be provided for all containers. Such stands shall be so designed as to prevent containers from being tipped.

(4) Where municipal collection service is not available, the mobile home park licensee shall be responsible for the collection of all refuse and garbage at least once a week, which shall be transported in covered vehicles or covered containers to municipal refuse or garbage disposal areas.

(G) FUEL SUPPLY AND STORAGE:

(1) Natural gas and liquefied petroleum gas systems shall comply with all applicable codes and regulations. Installation of systems shall be subject to inspection and approval by the Fire Chief.

(2) All fuel oil supply systems shall be constructed and installed in each mobile home lot in accordance with all applicable codes and regulations. Installation of the system shall be subject to inspection and approval of the Fire Chief.

(H) STORAGE FACILITIES:

(1) Storage facilities on or conveniently near each mobile home lot shall be provided for the storage of often-used outdoor equipment, furniture and tools; and for the storage of such other material as is used only seasonably or infrequently by the typical tenant and cannot be conveniently stored in the typical mobile home.

(2) When storage facilities are required by a mobile home tenant, the mobile home management shall furnish storage space located not more than one hundred (100) feet from the tenant's stand. Storage space shall be a minimum of ninety (90) cubic feet for each tenant in a suitable weather resistant structure built in accordance with the provisions of the Westbrook's Building Code and acceptable to the building inspector.

(I) MONUMENTS:

Granite or reinforced concrete monuments in accordance with the specifications of the ordinance entitled "Laying Out and Acceptance of Streets and Ways as Public Streets" shall be installed at least on one side of the right-of-way, at all street intersections, at all points of change in direction or curvature of streets, and at other points where, in the judgment of the Planning Board, permanent monuments shall be installed until all construction which would destroy or disturb the monument is completed.

(J) TREES:

Every effort shall be made to preserve the existing trees in the right-of-way and on the mobile home lots. Filling shall be done in such manner as to preserve the trees wherever possible.

(K) CLEANING-UP:

Upon completion of all work on the ground, the developer shall remove from the streets and adjoining property all temporary structures and all surplus material and rubbish which may have accumulated during construction, and shall leave the area in a neat and orderly condition. (Ord. of 10-06-70, Sec. 6)

Sec. 21-7. Miscellaneous requirements.

(A) RESPONSIBILITIES OF PARK MANAGEMENT:

- (1) The person to whom a permit to operate a mobile home park is issued shall operate the park in compliance with this chapter, and shall provide adequate supervision to maintain the park; its facilities and equipment in good repair and in clean and sanitary condition.
- (2) The park management shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities thereunder.
- (3) A mobile home shall not be occupied for dwelling purposes unless it is properly placed on a mobile home stand and connected to water, sewerage, and electrical utilities. The park management shall be responsible of the proper placement of each mobile home on a mobile home stand and for the proper installation of all utility connections. The management shall also be responsible for the disconnection of all utilities prior to the departure of a mobile home.
- (4) The park management shall maintain a register containing the names of all park occupants. Such register shall be available to any civil authority inspecting the park.
- (5) The license certificate shall be conspicuously posted in the office of or on the premises of the mobile home park at all times.
- (6) The park management shall be responsible for notifying the assessor of the arrival or impending departure of any occupied mobile home or change of ownership that occurs within the park.
- (7) No park shall permit the entrance of a mobile home having an evaporating type of heating or cooking facility.
- (8) The park management shall be responsible for maintaining the streets, sidewalks, and parking areas in good condition, and shall be responsible for prompt snow and ice removal from the streets and parking areas. Streets must be adequately plowed to permit free and ready vehicular access to all occupied lots.
- (9) Mobile home stands shall be well drained and shall provide an adequate foundation for the placement of a mobile home. Stand foundations shall be of such construction as to prevent heaving, shifting, erosion or settling and shall be free of all combustible material.

- (10) The park management shall furnish and maintain storage facilities for each tenant designed in a manner to enhance the appearance of the development.
- (11) The park management shall furnish and keep all playground equipment in a well maintained and safe condition.

(B) RESPONSIBILITIES OF PARK OCCUPANTS:

- (1) The park occupant shall comply with all applicable requirements of this section, and shall maintain his mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.
- (2) All individual mobile homes shall be equipped with noncombustible skirting, and shall set on noncombustible blocking, piers, or supports.
- (3) No owner or person in charge of a dog, cat or other pet animal shall permit it to run at large or to commit any nuisance in the park.
- (4) Park occupants shall be responsible for keeping their respective premises in neat and orderly condition; they shall not permit trash, litter, garbage, or other refuse to accumulate and become a nuisance. (Ord. of 10-06-70, Sec. 7)

Sec. 21-8. Special provisions.

(A) STANDARDS:

Notwithstanding other provisions of this chapter relating to space, bulk, and use, the Planning Board in reviewing plans for proposed mobile home parks, may modify said provisions related to space, bulk, and use to permit innovative approaches to environmental design in accordance with the following standards:

- (1) The purpose and intent of this chapter shall be upheld.
- (2) There shall be compliance with all state and local codes and ordinances.
- (3) There shall be no approval of any proposed new or expanded mobile home park, which exceeds the net residential density set forth in this chapter. For the purposes of this chapter, net residential density shall be established by the area of residual space available for mobile home development after deduction of vehicular rights-of-way and land not developable because of drainage, subsurface conditions or other natural impediment.
- (4) Front yard set back requirements may not be modified by a reduction of more than fifty percent (50%).
- (5) Minimum side yard requirements may not be modified by a reduction of more than fifty percent (50%).
- (6) Frontage requirements shall not be modified by a reduction of more than thirty-five percent (35%).
- (7) Each building and mobile home stand shall be an element of an overall plan for site development.
- (8) Where possible, mobile home stands shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas.
- (9) Development proposals shall include a landscape program to illustrate the proposed treatment of space, roads, paths, service and parking areas. Screening devices shall not impair pedestrian and vehicular safety.

- (10) All utilities shall be installed underground wherever possible. All transformer boxes, substations, pumping stations, and meters shall be located and designed as not to be unsightly or hazardous to the public.
- (11) Residual open space accumulated by modifying space and bulk requirements within the allowable density limits shall be allocated to the recreational amenity and environmental enhancement of the mobile home park and shall be designated as such on the site plan for the proposed development.
- (12) After approval of a proposed mobile home park, there shall be no further subdivision of land within the proposed development which will increase the allowable net density. (Ord. of 10-06-70, Sec. 8)

Sec. 21-9. Administration.

(A) VARIATION:

- (1) Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the intent of this chapter.

(B) CHANGES AND ALTERATIONS:

- (1) No changes or alterations shall be made in an approved definitive plan without submitting the changes for approval to the Planning Board. Any alteration in grades, drainage plans, or other utilities shall be deemed to constitute a change in the definitive plan.

(C) ENFORCEMENT:

It shall be the duty of the Building Inspector to enforce the provisions of this chapter.

- (1) If the Building Inspector shall find any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for the violations indicating the nature of the violation and ordering the action necessary to correct it. He shall take any other action authorized or prevent violation of, its provisions.

(D) LEGAL ACTION AND VIOLATION:

- (1) When any violation of any provision of this chapter shall be found to exist, the City Solicitor, either on his own initiative or upon notice from the Building Inspector, is hereby authorized and directed to institute any and all actions and proceedings either legal or equitable that may be appropriate or necessary for the enforcement of the provisions of this chapter, the same to be brought in the name of the City.
- (2) The Building Inspector may revoke any license to maintain and operate a mobile home park when the licensee has been found violating any provisions of this chapter and such violation has continued for a period of thirty (30) days after written notice thereof from a Municipal Inspection Officer. The license may be reissued when the circumstances leading to the revocation have been remedied and the park is being maintained and operated in full compliance with the provisions of this chapter.

(E) APPEAL PROCEDURE:

- (1) An appeal may be taken from any order issued by the Building Inspector, or other Municipal Inspecting Officer, and from the refusal to grant a permit, to the Municipal Officers.
- (2) On an appeal in writing to the Municipal Officers, they shall at their next meeting affirm, modify or set aside the prior order according to the terms of this chapter. However, they may permit a variation from the terms of the chapter where necessary to avoid undue hardship, provided that there is no substantial departure from the intent of this chapter.
- (3) An appeal from the decision of the Municipal Officers may be taken to the Cumberland County Superior Court in accordance with the provisions of Title 30, Section 2151 (c) of the Maine Revised Statutes.

(F) PENALTY FOR VIOLATION:

- (1) Any person or party found guilty of violating any of the provisions of this chapter shall be subject to a fine of not more than one hundred dollars (\$100.00) plus costs, for each offense and each day in which a violation continues to exist shall constitute a separate offense. (Ord. of 10-06-70, Sec. 9)

Sec. 21-10 – 21-14. Reserved.

ARTICLE II. MOBILE HOME PARK RENT JUSTIFICATION.⁴⁸

Sec. 21-15. Declaration of an Emergency.

Whereas a serious shortage of affordable mobile home park space in the City of Westbrook has resulted in abnormally high lot rents, and has produced serious threats to the public health, safety, and general welfare of the citizens of the community, this ordinance hereby mandates the establishment of a Mobile Home Lot Rent Justification Board. (Ord. of 9-24-90)

Sec. 21-16. Definitions.

- (a) The term “*lot rental amount*” means all financial obligations, except user fees, which are required as a condition of tenancy in mobile home parks.
- (b) The term “*mobile home*” means a residential structure, transportable in one or more sections, which is eight (8) body feet or more in width, over 35 body feet in length with a hitch, built on an integral chassis, designed to be used as a dwelling when connected to required utilities, not originally sold as a recreation vehicle, and included plumbing, heating, air conditioning, and electrical systems contained therein.
- (c) The term “*mobile home lot rental agreement*” or “*rental agreement*” means the written agreement between a mobile home owner and a mobile home park owner in

⁴⁸ **Editor’s Note** – Order #26 of April 21, 1992 amendments adopted retro-active to January 1, 1992.

which the mobile home owner is entitled to place his mobile home on a mobile home lot for either direct or indirect remuneration of the mobile home park owner.

- (d) The term “*mobile home owner*” or “*home owner*” means a person who owns a mobile home and rents or leases a lot within a mobile home park for residential use.
- (e) The term “*mobile home park owner*” or “*park owner*” means an owner or operator of a mobile home park.
- (f) The term “*unreasonable*” means arbitrary, capricious, or inconsistent with this ordinance.
- (g) The term “*user fees*” means those amounts charged in addition to the lot rental amount for nonessential optional services provided by or through the park owner to the mobile home owner.
- (h) The term “*discrimination*” or “*discriminatory*” means that a home owner is being treated differently as to the rent charged, the services rendered, or an action for possession, or other civil action being taken by the park owner without reasonable basis for the difference in treatment. (Ord. of 9-24-90)
- (i) “*Net operating income*” means the gross income of the mobile home park less the operating expenses of the park.
- (j) “*Gross income*” means the sum of total rent received plus other money generated as a result of the operation of the park, including, but not limited to fees for services plus any bonuses, benefits or payments received in connection with the use or occupancy of the mobile home unit.
- (k) “*Operating expenses*” means annual expenses reasonably incurred by the mobile home park owner directly related to the operation of the park for the following items:
 - 1. real estate and personal property taxes;
 - 2. utility costs defined as electricity, sewer & water;
 - 3. normal repair and maintenance expenses for the grounds and common facilities including, but not limited to landscaping, cleaning, plowing, painting and equipment repair;
 - 4. operating supplies incurred for administrative and maintenance purposes;
 - 5. administrative expenses including, but not limited to the total payroll expenses, and utilities, reasonable and necessary advertisement costs incurred to ensure occupancy, and legal and accounting expenses related to the operation of the mobile home park;
 - 6. insurance premiums prorated over the life of the policy;
 - 7. other taxes, fees and permits (excluding income taxes);
 - 8. the cost of all fees which are required to be paid to the City under this Ordinance or Rules & Regulations promulgated pursuant to Sec. 21-19 (b) for review of an application which results in the approval of a park’s annual operating expenses if the Park Owner has failed or refused to meet, and to engage in good faith discussions with the Tenants Association as provided in Sec. 21-18 (c) of this ordinance;
 - 9. capital improvements amortized in accordance with an amortization schedule approved by or acceptable under general accounting principles and certified by the park Owners Auditors as reflecting the normal useful life expectancy of that type of capital improvement. In addition, money placed in reserves for long term capital improvements may be treated as operating expense up to five percent

- (5%) of the annual gross income of the park, provided that the accumulated reserves shall not exceed thirty percent (30%) of the annual gross income of the park and provided that capital improvements funded from the reserve account shall not also be allowable on the capital improvement amortization schedule;
10. interest expenses for debt resulting from original acquisition of the park and for subsequent capital improvements to the park. Late penalties and/or interest assessed as a result of late payment or operating expense for purposes of this ordinance;
 11. depreciation expenses shall not be treated as operating expenses for the purpose of this ordinance;
 12. points and fees incurred by the park owner in refinancing the debt resulting from original acquisition of the park and the debt resulting from original acquisition of the park and in financing any subsequent capital improvements, said points and fees to be capitalized and amortized over the term of the loan. (Ord. of 4-21-92)

Sec. 21-17. Mobile home lot rental agreements.

- (a) The mobile home park owner shall provide each mobile home owner with a written mobile home lot rental agreement, which shall state the lot rental amount, the amount of any user fees, the term of the agreement and shall have attached a copy of this ordinance.
- (b) No lot rental agreement shall contain any rule or regulation prohibited by this ordinance, nor shall it provide for promulgation of any rule or regulation inconsistent with this ordinance.
- (c) The homeowner shall have no financial obligation to the park owner as a condition of tenancy, except the lot rental amount. The parties may agree otherwise to use fees which the home owner chooses to incur. No user fees shall be charged by the park owner to the mobile home owner for any services or amenities which were previously provided by the park owner and included in the lot rental amount unless there is a corresponding decrease in the lot rental amount.
- (d) No lot rental agreement shall be offered by a park owner for a term less than one (1) year, however, the initial term may be less than one (1) year in order to permit the park owner to have all rental agreements within the park commence at the same time. (Hereafter, all terms shall be for a minimum of one year.) The intention of the park owner to raise the lot rent within the first year shall be fully disclosed.
- (e) The lot rental agreement shall contain the lot rental amount and a schedule of the services included. An increase in lot rental amount shall not be arbitrary or discriminatory between similarly situated tenants in the park. (Ord. of 9-24-90)

Sec. 21-18. Lot rental increases; reduction in services or utilities; change in rules and regulations; mediation or arbitration.

- (a) A park owner shall give written notice to each affected mobile home owner and the board of directors of the Home Owners' Association, if one has been formed, at least 90 days prior to any increase in lot rental amount or reduction in services or utilities provided by the park owner or change in rules and regulations. The notice shall

identify all other affected homeowners by lot number. The Home Owners' Association shall have no standing to challenge the increase in lot rental amount, reduction in services or utilities, or change of rules and regulations unless a majority of the affected home owners agree to such representation.

- (b) Notice as required by this section shall only be required in the case of any change in the lot rental amount, any user fee charges, a reduction in services or utilities, or a change in park rules and regulations and the effective date thereof.
- (c) A committee, not to exceed five in number, designated by a majority of the affected mobile home owners or by the Board of Directors of the Home Owners' Association, if applicable, shall meet at a mutually convenient time with the park owner within thirty (30) days of the notice to discuss the reasons for the change in lot rental amount, user fees, reduction in services or utilities, or change in rules and regulations.
- (d) Within thirty (30) days of the date of the scheduled meeting described in subsection (3), the home owners may request that the dispute be submitted to the Rent Justification Board, if a majority of the affected home owners have designated, in writing that:
 - 1. The rental increase is unreasonable;
 - 2. The rental increase has made the lot rental amount unreasonable;
 - 3. The decrease in services or utilities is not accompanied by a corresponding decrease in rent or is otherwise unreasonable; or
 - 4. The change in the rules and regulations is unreasonable.(Ord. of 9-24-90)

Sec. 21-19. Dispute settlement.

- (a) At the time of acceptance of the Mobile Home Park Rent Justification Ordinance, the Mayor with the approval of the City Council shall appoint a three-member board to serve at the pleasure of the Mayor. Members of the Board shall receive no compensation for their services, but shall be reimbursed for expenses incurred in the performance of their duties. Members shall be appointed initially for staggered terms of two (2), three (3) and five (5) years, thereafter all members shall hold office for a term of five (5) years.
- (b) The Board shall make such studies and investigations, conduct such hearings and obtain such information as is deemed necessary in promulgating regulations, rules or orders under this ordinance and administering and enforcing regulations and orders promulgated hereunder. Any such rules and regulations adopted by the Board shall be subject to the approval of the City Council. Mobile home park owners may be required to furnish any relevant information reasonably required by the Board and to produce records and other documents and make reports. Such persons have the right to be represented by counsel. All parties shall have the right to present relevant testimony or documentary evidence and shall be allowed to cross-examine opposing parties' witnesses.
- (c) The Board after a public hearing shall make such individual or general adjustments, either upward or downward, in the lot rental amount as may be necessary to assure that rents are established at levels which yield to mobile home park owners a fair net operating income from the mobile home park.

- (d) The following factors, among other relevant factors, which the Board by regulation may define, shall be considered in determining whether the mobile home park will yield a fair net operating income.
1. Increases or decreases in property taxes;
 2. Unavoidable increases or any decreases in operating and maintenance expenses;
 3. Capital improvements of the mobile home park and costs of repair, replacement and maintenance;
 4. Increases or decreases in services or equipment.
- (Ord. of 9-24-90)

Sec. 21-20. Judicial Review.

Any person who is aggrieved by any action, regulation or order of the Board may file a complaint against the Board in the District Court having jurisdiction over the area in which the property is located and thereupon an order or notice shall be issued by such court and served on the Board as provided in the case of a civil action. Such District Court shall have exclusive original jurisdiction over such proceedings. All orders, judgements, and decrees of such District Court may be appealed as is provided in the case of a civil action in such District Court. (Ord. of 9-24-90)

Chapter 22
OFFENSES – MISCELLANEOUS

Sec. 22-1. Curfew established; enforcement.

- (a) No child under seventeen (17) years of age shall be or remain upon any street, in any store, shop, place of amusement or in any other public place in the City, after 9:00 p.m., unless accompanied by a parent, guardian or other person having legal custody of such minor, or unless the employment of such minor makes it necessary to be upon such street, in such store, shop or place of amusement or public place after such hour.
- (b) To aid in the practical enforcement of this section, it is hereby made the duty of the Chief Engineer of the Fire Department to cause two (2) blasts of the fire alarm to be sounded each night at 9:00 p.m. (1942 Rev. Code, Ch. XXXVI, Secs. 1,2)

Sec. 22-2. Loitering; police order to disperse.

- (a) It shall be unlawful for any person to loiter in any public place, or in or about any building or dwelling or adjacent thereto, in such a manner so as to:
 - (1) Obstruct any public street or public place by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of pedestrians or vehicles.
 - (2) Commit in or upon any public street or public place any act which is an obstruction or interference to the free and uninterrupted use of any property, or with any business being lawfully conducted by anyone in any public place, or which prevents the free and uninterrupted ingress and egress therein, thereon and thereto.
 - (3) Create or cause to be created any disturbance or annoyance to the discomfort or alarm of any person lawfully in or going to or from any building, dwelling or public place.
- (b) No person shall stop, loiter, be or remain upon, any school grounds, the grounds of any municipal building, any municipal cemetery or park, field or woodlands, or any municipal recreation facility or playfield, between the hours of 10 p.m., on any day, and 5:00 a.m. of the following day, except to attend a municipally sponsored event taking place at such locations during that time period; except while engaged in employment with the City; or except when other hours of operation, either earlier or later, are posted at such public grounds, in which case, such restrictions shall be controlling and shall be of full force and effect as though incorporated herein.
- (c) *Loitering*” shall mean remaining in essentially one location either alone and/or in consort with others and shall include the colloquial expression “*hanging around*”.
- (d) “*Public place*” shall mean any place to which the general public has access and a right to resort for business, entertainment or other lawful purposes, and shall include the front or immediate area of any store, shop, restaurant, tavern, or other place of business and also public grounds, areas or parks.
- (e) When any person or persons causes or commits any of the conditions enumerated in subsection (a) and/or (b) herein, a police officer, or any law enforcement officer, shall order the person or persons to stop causing or committing such conditions, and may, if he deems necessary for the preservation of public peace and safety, order that

person or persons to move on or disperse. Any person who fails or refuses to obey any such order shall be guilty of a violation of this section.

- (f) This section shall not apply to peaceful picketing, public speaking or other lawful expressions of opinion not in contravention of other city ordinances, or state and federal laws. (1942 Rev. Code, Ch. XXXVI-A, Sec. 1,2; Ord. of 9-11-61; Ord. of 4-02-73)

Sec. 22-3. Pedestrians not to obstruct traffic; duty of officer, etc., to disperse offenders.

Three (3) or more persons shall not stand together, or near each other, in any street or on any sidewalk, in such a manner as to obstruct the free passage therein for passengers. It shall be the duty of any police officer, constable or watchman of the City to order any person violating the foregoing provision of this section to move on; and if the person does not obey, to remove him or arrest and cause him to be brought before the district court. There a complaint shall be made against him for the violation of this section. (1942 Rev. Code, Ch. XVI, Sec. 7)

Sec. 22-4. Games of chance in streets.

No person shall expose in any street, square or other public place any table or device of any kind whatsoever upon or by which any game of hazard or chance can be played, and no person shall play at any such table or device or at any unlawful game on any street or public place. (1942 Rev. Code, Ch. XVI, Sec. 4)

Sec. 22-5. Games in streets not to interfere with traffic.

No person shall play at any game of ball, football, snowball or any other game interfering with the convenience or safety of passersby, in or upon any street in the City. (1942 REv. Code, Ch. XVI, Sec. 6)

Sec. 22-6. Disturbing the peace.

No person shall, in any street or public place, make any loud or unusual noise, either by voice or otherwise, or sing improper or boisterous songs, or utter obscene, indecent or profane songs or words, or in any unruly or boisterous manner disturb the quiet and good order of the City. (1942 Rev. Code, Ch. XVI, Sec. 12)

Sec. 22-7. Distribution of advertising materials.

- (a) No person shall pass, throw or deposit, or cause to be passed, thrown or deposited in any street, court, square or in any public place, any paper, handbills, pamphlets or posters.
- (b) No person, without permission of the Council, shall throw or deposit or cause to be thrown or deposited in any doorway or entrance to any building, or pass or cause to e

passed from door to door of any building any handbills, pamphlets, posters or any other kind of advertising matter.

- (c) The right given to pass and distribute handbills, pamphlets and posters as mentioned in this section may be revoked at any time by the Council if it be deemed for the welfare of the public. (1942 Rev. Code, Ch. XXXI, Sec. 1,2)

Sec. 22-8. Public buildings, trees, poles not to be defaced by posting advertisements.

No person, except by permission of the City Council, shall post any bill, notice or any advertisement on, or in any way deface or injure any of the public buildings, trees growing in the streets or public places or poles supporting electric lights or wires. (1942 REv. Code, Ch. XVI, Sec. 14)

Sec. 22-9. Spitting in public places.

No person shall spit upon any floor of any public building or place of amusement or upon any sidewalk. (Ord. of 5-04-64, Ch. XXVII, Sec. 11)

State law reference – For similar provisions, see 22 MRSA Sec. 1564.

Sec. 22-10. Curfew on swimming Highland Lake Dam area.

The dam at the outlet of Highland Lake (also known as Duck Pond) and the shore for fifty (50) feet on either side of the dam shall be closed to swimming between the hours of 8:30 p.m. and 6:00 a.m. (Ord. of 8-05-74)

Chapter 23
PARKS AND RECREATION⁴⁹

- Art. I. In General, Secs. 23-1 – 23-10
Art. II. Recreation-Conservation Commission, Secs. 23-11 – 23-17

ARTICLE I. IN GENERAL

Sec. 23-1. Riverbank Park – Joint management, care.

The tract of land situated on the northerly side of Main Street and extending from Dunn Street to the property of the Roman Catholic Church, known as Riverbank park, is hereby placed under the joint management and care of the trustees of Woodlawn and Saccarappa Cemeteries and the Mayor. (1942 Rev. Code, Ch. XXV, Sec. 1)

Sec. 23-2. Loitering restricted.

No person shall stop, loiter, be or remain in any of the parks of the City between sunset and sunrise of the following day, unless said person has prior written authorization of the Chief of Police to be in said park during the aforesaid hours, except where an event approved by the trustees and/or Mayor is taking place in said park. (Ord. of 10-21-91)

Sec. 23-3 Reserved.

Sec. 23-4. Alcoholic beverages prohibited – Within City Park or recreation property.

It shall be unlawful for any person to possess or to consume any alcoholic beverage or liquor, as defined by Title 28 MRSA, Section 2, within the boundaries of any city-owned, leased, managed or controlled park or recreation property. (Ord. of 6-09-80)

Sec. 23-5. Same – Police chief to post signs.

Any person violating the provisions of Section 16-4 shall be punished by a fine of fifty dollars (\$50.00) recoverable to the use and benefit of the City of Westbrook. (Ord. of 6-09-80)

Sec. 23-7 – 23-10. Reserved.

⁴⁹ **Cross references** – All terrain vehicles prohibited in city parks, Sec. 3-4 (b) (1) d; Planning Board's authority to require subdividers to establish parks, Sec. 30-74.

ARTICLE II. RECREATION-CONSERVATION COMMISSION⁵⁰

Sec. 23-11. Created; composition; qualifications of members.

Under the authority of Title 30, Section 3552 and 3851 of the Maine Revised Statutes, there is hereby created a Westbrook Recreation-Conservation Commission, which shall consist of seven (7) members who must be citizens and residents of the City of Westbrook. (Ord. of 12-07-70; Ord. of 12-21-87)

Sec. 23-12. Appointment, tenure, compensation of members.

The seven (7) members shall be appointed by the Mayor, subject to the approval of the City Council. The initial members shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years. Thereafter all subsequent appointments, except to fill vacancies, shall be for a term of five (5) years and until a successor is appointed and qualified. All appointments for the members of said commission shall serve without pay and a vacancy shall occur when a member ceases to be a resident of the City. (Ord. of 12-07-70, Sec. 1; Ord. of 12-21-87)

Sec. 23-13. Election of officers.

Immediately after the appointment the members of said commission shall meet and elect a chairman, vice-chairman and a secretary, and other such officers as may be necessary, to serve for a period of one (1) year. (Ord. of 12-07-70, Sec. 2)

Sec. 23-14. Meetings; records; quorum constituted.

The commission shall hold regular meetings and shall designate the time and place thereof, and shall keep a record of all its proceedings. Four (4) members of the commission shall constitute a quorum. An additional two (2) nonvoting, associate members may be appointed to assist the commission. (Ord. of 12-07-70, Sec. 3; Ord. of 12-21-87)

Sec. 23-15. Powers and duties.

The Westbrook Recreation-Conservation Commission:

- (a) Shall have the responsibility of planning and developing an adequate and wholesome recreation program for the people of both sexes and all ages, including recreation centers, areas and facilities, in cooperation with the Westbrook Planning Board, which shall be supervised and maintained under the direction of the City Recreation Director throughout the City of Westbrook.

⁵⁰ **Editor's note** – Ord. of December 7, 1970, being non-amendatory of this Code, has been included herein as Art. II, Secs. 23-11 – 23-17, at the discretion of the editors. The ordinance is set out as enacted, however, in several instances catchlines were altered by the editors to facilitate indexing and reference, and Sec. 7, repealer provisions, was omitted.

- (b) Shall have the power to conduct both indoor and outdoor recreation activities and facilities on all City property, subject to the approval of the City Council, and in the school buildings, and on the school grounds which are in charge of the School Committee, subject to its consent, and in cooperation with the Cornelia Warren Community Association and other organizations having similar recreational purposes.
- (c) Subject to the approval of the Mayor, it shall have the power to call upon any other department of the City government for assistance in performing its duties, and it shall be the duty of such other departments to comply with the requests of said commission within the limits of its departmental budget.
- (d) Shall conduct research, in conjunction with the Westbrook Planning Board, into the land area throughout the City and seek to coordinate the activities of other conservation bodies organized for similar purposes.
- (e) Shall prepare and keep an index of all "open areas" both publicly and privately owned, within the City, including swamps, and other wet lands, and waterways, for the purpose obtaining information pertinent to the proper utilization, protection, development or use of such areas, and may recommend to the City Council or any other municipal body, board or commission or any public agency of the State of Maine a program for the better utilization, protection, development or use of such areas, which may include the acquisition of conservation easements of land for city or area recreational purposes.

As used in this subsection "open areas" means any space or area the preservation or restriction of the use of which would maintain or enhance the conservation of natural resources, protect natural streams of water supplies, enhance the value of the public of abutting or neighboring parks, nature reservations or sanctuaries, historic sites, implement the plan of development adopted by the Planning Board or Commission of any municipality and/or promote orderly urban or suburban development.

- (f) The Commission may, with the approval of the City Council, acquire by purchase or gift land and /or conservation easements in the name of the City of Westbrook for any of the purposes set forth in this section.
- (g) When in the opinion of the Commission a parcel or parcels of land or easements therein should be acquired by the City for such conservation purposes, but cannot be purchased from the owners thereof at a fair market value, the Commission may recommend to the City Council that it be acquired by condemnation proceedings as authorized by State Law.
- (h) Subject to the approval of the City Council, the Commission may make and enter into such contracts as it may deem advisable to carry out the objectives and purposes of the Commission, and shall have such other powers and perform such other duties, in conjunction with the Westbrook Planning Board, as may be necessary for the proper administration of the affairs of the commission. (Ord. of 12-07-70, Sec. 4)

Sec. 23-16. Recreation and conservation account; budget.

- (a) The Commission may solicit and receive federal and/or state grants of funds and private gifts or bequests to be used, principal or income, for municipal and area recreational and/or conservation purposes and all such funds shall be deposited with

the City Treasurer in a special City Recreation/Conservation account to be invested and/or appropriated as directed by the City Council.

- (b) The Commission when requested by the Mayor shall submit an estimate of its anticipated revenues and expenditures as its proposed budget for the ensuing fiscal year, to be approved in whole or in part by the City Council as part of the City's annual budget; and the said Commission must operate within its annual budget, subject to the City Charter and existing ordinances, as approved by the City Council, unless it is otherwise supplemented by the City Council. (Ord. of 12-07-70, Sec. 5)

Sec. 23-17. Annual reports.

The Commission shall submit a written annual report to the Mayor and the City Council by January 30th of each year relative to the work of the commission during the prior fiscal year, and submit such other reports as may be requested by the Mayor and/or the City Council from time to time. (Ord. of 12-07-70, Sec. 6)

Chapter 24
PLUMBING⁵¹

Sec. 24-1. Adoption of State Code.

The rules and regulations relative to plumbing work done within this state, known as the Maine State Plumbing Code, including the appendices thereto, as adopted by the State Department of Health and Welfare under the authority conferred by 22 M.R.S.A. Sec. 42 and Chapter 200 of the Public Laws of 1959, as amended, and as published by the Division of Sanitary Engineering of the Department of Health and Welfare, shall be the plumbing law or code of the City. (1942 Rev. Code, Ch. XLII, Sec. 1; Ord. of 12-17-63)

Sec. 24-2. Additional charge for belated permits.

When a plumbing permit is not applied for within two (2) business days after the work has been started, the fee for such a belated permit shall be double the amount of the fee as per schedule, subject to a maximum of fifty dollars (\$50.00) as to such additional amount. Said additional amount shall be deposited with the City Treasurer and shall not be part of the Inspector's compensation. (Ord. of 12-27-73)

Editor's note – Permit fees are set out in Sec. 8 of Art. I of the State Plumbing Code.

⁵¹ **Cross references** – Buildings, Ch. 6; owners of dwelling units to insulate plumbing, Sec. 17-9; occupants of dwellings to prevent freezing of plumbing, Sec. 17-10; plumbing requirements of housing code, Sec. 17-141 et seq.; subdivisions, Ch. 30.

Chapter 25
POLICE⁵²

- Art. I. In General, Secs. 25-1 – 25-15
Art. II. School Patrol, Secs. 25-16 – 25-27

ARTICLE I. IN GENERAL

Sec. 25-1. Manual of rules and regulations on file in Clerk's Office; unaffected by adoption of Code.

The Westbrook Police Department Manual of Rules and Regulations enacted on March 7, 1967, as amended, is on file in the City Clerk's Office, and the adoption of this Code shall in no way affect its validity.

Sec. 25-2. Burglar alarm systems.

- (a) Master panel hook-up fee. The Police Department may maintain a burglar alarm system master panel at the Police Station and regulate its use and the conditions required for hook-up including, but not limited to, the obligation that any person or firm, as a condition to connecting its property to the master panel, must enter into an agreement with the City in a form prescribed by the Chief of Police. Users shall pay a hook-up fee of twenty-five dollars (\$25.00).
- (b) Automatic dialing device. Any alarm system may be connected to the Department by an automatic dialing device or similar system; however, no alarm user shall maintain any direct connection from an alarm system to the communications center of the Police Department.
- (c) Penalty for false alarms. For the third and following police response to a false alarm within any calendar year received from a business, the alarm user shall pay a penalty

⁵² **Cross references** – Required police action when notified of dead or dying animals, Sec. 4-3; police department authorized to conduct studies of accidents and determine remedial measures, Sec. 31-10; duties of Chief concerning bicycle licenses, Sec. 5-7 et seq.; Chief to investigate purchases of handguns, Sec. 34-17; Chief to issue permits to fire or discharge guns, etc., Sec. 34-1; authorization of Chief to issue special permit to permit loading and unloading at angle to curb, Sec. 31-88; responsibility of Chief to direct the installation of traffic control devices, Sec. 31-25; Chief to direct the erection of no parking signs on left side of one-way streets, Sec. 31-97; Chief to direct the erection of signs prohibiting parking on narrow streets, Sec. 31-96; Chief to direct the erection of signs prohibiting parking adjacent to schools, Sec. 31-95; Chief to direct the erection of restricted turn signs at intersections, Sec. 31-56; Chief to direct the erection of signs at through streets, Sec. 31-48; Chief to direct the erection of turn markers at intersections, Sec. 31-55; Chief to direct the erection of signs designating parking time limits, Sec. 31-106; Chief to direct the erection of one-way street and alley signs, Sec. 31-45; Chief authorized to designate and maintain crosswalks and safety zones, Sec. 31-21; Chief authorized to declare and mark play streets, Sec. 31-39; Chief to direct the marking of traffic lanes, Sec. 31-42; Chief to direct the marking of streets for angle parking, Sec. 31-86; Chief authorized to designate temporary one-way streets, Sec. 31-43; Chief authorized to designate temporary hazardous or congested areas, Sec. 31-98; Chief authorized to restrict the direction of vehicles during certain periods, Sec. 31-47; Chief authorized to regulate parking near intersections, Sec. 31-90; Chief authorized to waive payment on any parking violation ticket issued to nonresident, Sec. 31-113, police and fire department personnel, Sec. 2-214, et seq.

of twenty-five dollars (\$25.00) for each occurrence; each residential or other user shall pay a penalty of ten dollars (\$10.00). (Ords. of 4-07-86, 1-22-91)

Editor's note – An ordinance of April 7, 1986, specifically amended the Code by adding a new Sec. 18-28 thereto. For classification purposes, the editor has redesignated the substantive provisions of the ordinance as Sec. 25-2.

Secs. 25-3 – 25-15. Reserved.

ARTICLE II. SCHOOL PATROL

Sec. 25-16. Mayor authorized to appoint personnel.

Upon the recommendation of the Chief of Police, the Mayor is hereby authorized to appoint sufficient personnel to establish a school patrol. (1942 Rev. Code, Ch. XIV-A, Sec. 1801.01; Ord. of 3-07-67)

Sec. 25-17. Qualifications of personnel generally.

Each appointee to the school patrol shall be of good character, of acceptable personality, good health and shall be sworn to the faithful performance of his duties. (1942 Rev. Code, Ch. XIV-A, Sec. 1801.01; Ord. of 3-07-67)

Sec. 25-18. Age limits of applicants.

All applicants to the school patrol must be at least twenty-one (21) years of age, and all members of the school patrol shall be relieved from such duties and service upon reaching the age of seventy-two (72). (1942 Rev. Code, Ch. XIV-A, Sec. 1801.01 (b); Ord. of 3-07-67)

Sec. 25-19. Applicants to submit to physical exam.

All applicants to the school patrol shall submit to a physical examination. (1942 Rev. Code, Ch. XIV-A, Sec. 1801.01 (a); Ord. of 3-07-67)

Sec. 25-20. City physician to conduct exam; report results to Chief.

The physical examination required in this article shall be conducted by the city physician using standard police requirements, but shall make allowances as to the applicant's sex and age. The examining physician shall report his findings to the Chief of Police in writing, reporting the applicant as qualified or disqualified. (1942 Rev. Code, Ch. XIV-A, Sec. 1801.01 (a); Ord. of 3-07-67)

Sec. 25-21. Chief may require annual physical exam.

The Chief of Police may require an annual physical examination of appointees to the school patrol, expenses to be paid by the City. (1942 Rev. Code, Ch. XIV-A, Sec. 1801.01 (a); Ord. of 3-07-67)

Sec. 25-22. Appointees not members of department; not under civil service.

The appointees to the school patrol shall not be considered to be members of the Westbrook Police Department and shall not be under the terms of civil service. (1942 Rev. Code, Ch. XIV-A, Sec. 1801.03; Ord. of 3-07-67)

Sec. 25-23. Appointees responsible to Chief; removal; vacancies.

Each appointee to the school patrol shall be responsible to the Chief of Police, and any such appointee may be removed from service by the Mayor when such removal is recommended by the Chief of Police. Vacancies shall be filled in the manner provided for original appointment. (1942 Rev. Code, Ch. XIV-A, Sec. 1801.02; Ord. of 3-07-67)

Sec. 25-24. Appointee's authority in traffic matters.

An appointee to the school patrol shall have the same powers in matters of traffic control as are now vested in the members of the Westbrook Police Department and may summons into the 9th District Court any violator of the traffic ordinance of the City and for the violation of any laws of the State relating to traffic control. (1942 Rev. Code, Ch. XIV-A, Sec. 1801.06; Ord. of 3-07-67)

Sec. 25-25. Chief's duty to make assignments, fix hours, supervise work.

The Chief of Police shall have the authority to assign appointees to the school patrol to such localities as shall be best suited to offer protection to those attending school, shall fix their hours of service, and shall be sole supervisors of the duties of each such appointee. (1942 Rev. Code, Ch. XIV-A, Sec. 1801.02; Ord. of 3-07-67)

Sec. 25-26. Mayor, Council to establish compensation.

The Mayor and Council shall fix the compensation to be paid all appointees to the school patrol and shall direct the manner of payment. (1942 Rev. Code, Ch. XIV-A, Sec. 1801.04; Ord. of 3-07-67)

Sec. 25-27. Appointees to be issued badge, etc.

Each appointee to the school patrol shall, at the expense of the City, be supplied with a suitable badge and such other equipment as shall be prescribed by the Chief of Police. (1942 Rev. Code, Ch. XIV-A, 1801.05; Ord. of 3-07-67)

Chapter 26

SANITARY FACILITIES, SEWERS AND WASTEWATER TREATMENT⁵³

- Art. I. In General, Secs. 26-1 – 26-49
Art. II. Sewer Assessments, Secs. 26-50 – 26-53

ARTICLE I. IN GENERAL

Sec. 26-1. Scope of chapter.

The provisions of this Chapter shall apply to and govern sanitary facilities, sewers and wastewater treatment; the excavation, construction, installation, usage, maintenance, extension, alteration, repair, or removal of any building sewer, building storm drain, sanitary sewer system, or storm drainage or sewer system; the connection of building sewers and building storm drains to sanitary sewer systems, storm drainage systems or combined sewers; the type of wastewaters prohibited from public sewers and storm drainage systems; permitted and prohibited concentrations and strengths of wastewater; and situations in which use of a private sewage disposal system is permissible. (Ord. of 9-19-77)

Sec. 26-2. Intent and purpose of chapter.

- (a) It shall be the intent and purpose of this Chapter to reduce, to the extent practicable, existing pollution, to prevent further pollution caused by inadequate wastewater disposal, and to accomplish the necessary local legislation to meet the requirements of the Portland Regional Wastewater Plan established by the Portland Water District, the State of Maine and the federal government. All this is in furtherance of the health, welfare, comfort and convenience of the inhabitants of the City of Westbrook.
- (b) Whereas the Portland Water District has been designated by state legislative action and local public referendum as the regional agency responsible for wastewater treatment, none of the provisions of this Chapter shall be construed to repeal or otherwise interfere with the rights, duties and/or powers granted to the Portland Water District pursuant to Chapter 433 of the private and special laws of the State of Maine of 1907, as amended. (Ord. of 9-19-77)

Sec. 26-3. Enforcing officer.

⁵³ **Editor's note** – Ord. of September 19, 1977 as enacted provisions designated as Ch. 19. Said provisions are included herein as superseding former Ch. 19, pertaining to sewers and drains, derived from 1942 Rev. Code, Ch. XXIX,k Art. I, Secs. 101-106, 120; Art. II, Secs. 201-204; Art. III, Secs. 301,302; Art. IV, Secs. 401-414; Art. V, Secs. 501-505; Art. VI, Sec. 601; Art. VII, Sec. 701; Ch. XXXIV; Ord. of Nov. 18, 1963; Ord. of april 20, 1966; and Ord. of July 1, 1974.

Cross references – Plumbing provisions of the housing code, Secs. 17-141, et seq.; sewer user fees and industrial cost recovery, Ch. 27.

Charter reference – Sewerage regulations, Secs. 15 – 15-I.

State law reference – Sewerage disposal systems, sewers and drains generally, 30 M.R.S.A. Sec. 4251 et seq.

The City Engineer shall administer and enforce the provisions of this chapter. (Ord. of 9-19-77)

Sec. 26-4. Definitions.

For the purposes of this Chapter, all words shall have their normal meaning and such meaning, as may be in common use in the field of sanitation and wastewater treatment. Certain words are more particularly defined. For the purposes of this Chapter, the term:

- (a) *B.O.D.* (Denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of wastewater under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.
- (b) *Building* shall mean a structure built, erected and framed of component structural parts designed for the housing, shelter, enclosure or support of persons, animals or property of any kind.
- (c) *Building drain* shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, which begins eight (8) feet outside the outer face of the building wall.
- (d) *Building sewer* shall mean the extension from the building drain to the public sewer or other place of disposal.
- (e) *Caustic alkalinity* shall mean that material which raises the pH of water above 8.3.
- (f) *City* shall mean the City of Westbrook, Maine.
- (g) *City engineer* shall mean the City Engineer of the City of Westbrook, Maine, or his duly authorized representative.
- (h) *Combined sewer* shall mean a pipe or conduit receiving both surface runoff and wastewater.
- (i) *Commercial wastes* shall mean any wastes from commercial establishments as distinct from domestic wastewaters or industrial wastes.
- (j) *C.O.D.* (chemical oxygen demand) shall mean the measure of the oxygen required for oxidation of that portion of the wastewater in a sample that can be oxidized by a strong chemical-oxidizing agent.
- (k) *Department* shall mean the Department of Public Works of the City of Westbrook, Maine, or a duly authorized representative.
- (l) *Division superintendent* shall mean the official directly in charge of the Westbrook Sewerage Division of the Department of Public Works.
- (m) *Domestic wastewater* shall mean the liquid wastes and liquid born wastes discharged from the sanitary conveniences such as toilets, washrooms, urinals, sinks, showers, drinking fountains, home laundry rooms, kitchens and floor drains essentially free of industrial wastes or toxic materials.
- (n) *F.O.G.* shall mean the measure of fats, wax, grease and oils (other than petroleum based materials).
- (o) *Garbage* shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
- (p) *Industrial wastes* shall mean any wastes from industrial processes as distinct from domestic or commercial wastewater.

- (q) *Incompatible pollutant* is defined as any pollutant other than biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria.
- (r) *Major contributing industry* is defined as one which:
 - (1) Has industrial waste flow of 50,000 gallons or more per average working day; or
 - (2) Has an industrial waste flow greater than five (5) percent of the flow carried by the system receiving the waste; or
 - (3) Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307 (a) of the Federal Water Pollution Control Act, amendment of 1972, Public Law 92-500; or
 - (4) Has a significant impact, as determined by the City Engineer, either singularly or in combination with other contributing industries, on the treatment works or on the quality of the effluent from the treatment works.
- (s) *Natural outlet* shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.
- (t) *Owner* shall mean the owner of record according to the Westbrook Tax Assessor's files and shall include his agent or contractor relative to the excavation and installation requirements of this Chapter.
- (u) *Person* shall mean any individual, firm, company, association, society, corporation, group, trust or governmental authority.
- (v) *PH* shall mean the logarithm of the reciprocal of the H-ion concentration.
- (w) *Private sewage disposal system* shall mean a treatment tank with the effluent discharging into a subsurface absorption area, or such other facilities as may be permitted under the procedures set forth in rules and regulations adopted by the State of Maine Bureau of Health.
- (x) *Private sewer system* shall mean any sewer system within the City of Westbrook not owned by or being constructed by a public authority.
- (y) *Private wastewater treatment works* shall mean all facilities other than "private sewage disposal systems" for treating and disposing of wastewater within the City, not owned by a public authority. "Private wastewater treatment works" shall be distinct from "private sewage disposal systems" as the effluent is discharged directly into surface water bodies.
- (z) *Properly shredded garbage* shall mean the wastes from preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.
- (aa) *Public sewer* shall mean a common sewer which is controlled by a public authority and becomes a part of the public sewerage system.
- (bb) *Sanitary sewer* shall mean a sewer, which carries wastewater, and to which storm, surface and groundwater are not intentionally admitted.
- (cc) *Sewer* shall mean a pipe or conduit for carrying and transporting wastewater.
- (dd) *Slug* shall mean any discharge of water, sewage, wastewater or industrial waste which in concentration of any given constituent or in the flow rate exceeds for any period of duration longer than fifteen (15) minutes more than five (50 times the average twenty-four-hour concentration or flow rate during normal operation as measured at the treatment plant).

- (ee) *Storm drain* (sometimes termed “storm-sewer”) shall mean a pipe or conduit, which carries storm and surface waters and drainage, but excludes wastewater and industrial wastes other than unpolluted cooling water.
- (ff) *Suspended solids* shall mean solids that either float on the surface of, or are in suspension in water, wastewater or other liquids, and which are removable by laboratory filtration.
- (gg) *Wastewater treatment works* shall mean all facilities for collecting, pumping, treating and disposing of wastewater.
- (hh) *Wastewater* shall mean a combination of the liquid and water-carried wastes from residences, commercial buildings, institutions and storm waters as may be unintentionally present. The term “sewage” may be used interchangeably with the term wastewater.
- (ii) *Watercourse* shall mean a channel in which a flow of water occurs, either continuously or intermittently.
- (jj) *Westbrook Sewer Commission* shall mean a Board of three (3) members appointed pursuant to Section 15-B of the Westbrook City Charter and charged with the administration of the public sewerage system. (Ord. of 9-19-77)

Sec. 26-5. Sanitary facilities required.

Every building intended for human habitation shall be provided with suitable and sufficient sanitary facilities for the use of the occupants thereof. Every building intended for temporary occupancy, for employment, recreation or other such uses shall be provided with suitable and sufficient sanitary facilities except where such facilities shall comply with all health laws of the State and the City of Westbrook Code of Ordinances in character, number and method of installation. (Ord. of 9-19-77)

Sec. 26-6. Sanitary sewerage system required; connection to public sewer.

Every building requiring sanitary facilities under Section 26-5 and located on premises abutting a public sewer and being within two hundred (200) feet of such public sewer shall have a sanitary sewerage system which shall be connected with the public sewer by the owner of the premises in the most direct manner possible, and with a separate building sewer for each such building on the premises unless otherwise authorized by the City Engineer, unless such buildings are serviced by an approved wastewater treatment works. (Ord. of 9-19-77)

Sec. 26-7. Permit required.

No person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the sewerage division of the Public Works Department. All such work shall comply with all applicable state and local codes, ordinances, statutes and regulations. (Ord. of 9-19-77)

Sec. 26-8. Two classes of permits; application.

- (a) There shall be two (2) classes of building sewer permits: One for residential service, and one for service to establishments producing industrial or commercial wastes.
- (b) In all cases, the owner shall make application on special forms furnished by the City. The permit application form shall be supplemented by any plans, specifications or other information considered pertinent in the judgement of the City Engineer. (Ord. of 9-19-77)

Sec. 26-9. Discontinuance of private sewage disposal facilities: inspection.

At the time that direct connection to the public sewer is completed, use of the private sewage disposal facilities shall be discontinued and abandoned. Such abandoned facilities shall be in compliance with the Maine State Plumbing Code. (Ord. of 9-19-77)

Sec. 26-10. Connection within one year required.

Connection to the public sewerage system shall be completed within one year after the official notice to do so. (Ord. of 9-19-77)

Sec. 26-11. Inspection, testing, etc., to be permitted.

- (a) The City Engineer and/or his duly authorized representatives, bearing proper credentials and identification, shall be permitted to enter upon all premises with sewer and /or storm drainage systems which discharge domestic wastewater into the public sewer system, but only at reasonable times and upon reasonable notice, for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter.
- (b) Whenever any inspection of work is required under this Chapter, the owner or his agent shall notify the City Engineer twenty-four (24) hours prior to the time such work shall be ready for such inspection and shall arrange a time for such inspection during the next succeeding working day. The City Engineer shall inspect the work during the said next working day, and if he shall fail to make such inspection, where such failure is not caused by the owner or his agent, the work shall be considered approved. (Ord. of 9-19-77)

Sec. 26-12. Damaging structures, equipment prohibited.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewerage works of the City. (Ord. of 9-19-77)

Sec. 26-13. Fees: Established; bills rendered; liability; delinquent.

- (a) Permit, inspection and entrance fees not provided for in this Chapter shall be established by the City Council after receiving the recommendations of the sewer

commission. A schedule of such fees shall be on file in the City Clerk's Office and in the Office of the City Engineer.

- (b) Sewer user fees, industrial surcharges and industrial cost recovery charges shall be determined as provided in the sewer user fee and industrial cost recovery chapter. A schedule of all such fees and charges shall be on file in the City Clerk's office and in the Office of the City Engineer. (Ord. of 9-19-77)

Sec. 26-14. General regulations for connection to public sewer.

- (a) The connection of a building sewer into the public sewer shall be made only under the supervision of the City Engineer upon notification that a proper excavation for the connection has been completed in accordance with the written permit for doing so.
- (b) No back filling of trenches shall be done until the connection meets the approval of the City Engineer.
- (c) If a wye or tee branch in the public sewer is available at a suitable location, the connection shall be made at the branch. Where the public sewer is eight (8) inches or greater in diameter and no properly located wye or tee branch is available, a neat hole may be out into the public sewer and a special cast iron hub may be cut into the public sewer and special cast iron hub installed as follows: A smooth neat joint shall be made, and the connection made secure and watertight by encasement in brick and cement mortar. Special fittings may be used if approved by the City Engineer prior to installation. (Ord. of 9-19-77)

Cross reference – Sewer user fees and industrial cost recovery, Ch. 27.

Sec. 26-15. Use of old sewers with new buildings.

Old building sewers may be used in connection with new buildings only when such building sewers are found to meet all requirements of this Chapter and of all applicable state laws and are approved by the City Engineer. (Ord. of 9-19-77)

Sec. 26-16. Expense of installation, connection; indemnification of City.

- (a) All costs and expenses incident to the installation and connection of the building sewer required by Section 26-6 shall be borne by the owner, and it shall be the responsibility of the owner to maintain this sewer in good working order from the building to the public sewer. A properly installed and maintained backwater valve shall be provided by the owner on all drains connecting to the public sewer system, where such valve is required under the Maine State Plumbing Code.
- (b) The owner shall indemnify the City for any loss or damage that may directly or indirectly be occasioned by the installation or repair of the building sewer. (Ord. of 9-19-77)

Sec. 26-17. Building sewer construction standards generally.

- (a) Whenever possible, a sewer shall be brought to a building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost.

- (b) If a building sewer shall be laid parallel to any bearing wall, it shall not be closer than three (3) feet to such wall. The building sewer shall be laid at a uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe-fittings. (Ord. of 9-19-77)

Sec. 26-18. Required pipe; regulation of joints.

All new or replaced building sewers shall conform to the requirements of the State Plumbing Code in type of piping and joints used. (Ord. of 9-19-77)

Sec. 26-19. Size, slope of building sewer.

- (a) The size and slope of a building sewer shall be subject to the approval of the City Engineer, but in no event shall the diameter be less than four (4) inches.
- (b) The slope of such four-inch pipe shall be not less than one-eighth (1/8) inch per foot. (Ord. of 9-19-77)

Sec. 26-20. Excavations to be open trench work.

All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City Engineer. All such excavations shall comply with all applicable State and Federal safety regulations, copies of which are on file in the Office of the City Engineer. (Ord. of 9-19-77)

Sec. 26-21. Pipe laying, backfill regulated.

Pipe laying and backfill required for the installation of a building sewer shall be performed to the satisfaction of the City Engineer, and no backfill shall be placed until the work has been inspected and approved. (Ord. of 9-19-77)

Sec. 26-22. Excavations to be barricaded, lighted.

All excavation for building sewer installation shall be adequately guarded with barricades and lights maintained by the owner so as to protect the public from hazard. (Ord. of 9-19-77)

Sec. 26-23. Property disturbed during excavation to be restored.

Street, sidewalks, parkways and other public property disturbed when excavating for installation of building sewers shall be restored in a manner satisfactory to the City Engineer and shall be in accordance with "The Street Excavation Ordinance of the City of Westbrook" (Ord. of 9-19-77)

Sec. 26-24. Excavations adjacent to public sewers by power equipment.

No excavation by power equipment shall be made over or immediately adjacent to any public sewer unless the City Engineer has been so notified in advance and is present to supervise the excavation. (Ord. of 9-19-77)

Sec. 26-24. Excavations adjacent to public sewers by power equipment.

No excavation by power equipment shall be made over or immediately adjacent to any public sewer unless the City Engineer has been so notified in advance and is present to supervise the excavation. (Ord. of 9-19-77)

Sec. 26-25. Capping of sewer required; inspection; fees.

In the case of buildings being removed and their basements filled and graded or left open, the building sewer shall be properly capped at the street right-of-way line to the satisfaction of the City Engineer. Notice of intent to demolish a building shall be given by the owner to the City Engineer by means of a copy of the permit to demolish issued by the Code Enforcement Office. Inspection of all such capping shall be done by the City Engineer prior to any backfilling. (Ord. of 9-19-77)

Sec. 26-26. Drainage required when gravity flow prevents discharge into public sewer.

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved means and discharged to the building sewer. (Ord. of 9-19-77)

Sec. 26-27. Privies regulated.

No person shall build or maintain a privy except in strict compliance with all applicable State laws and regulations. And in no event shall any privy be located closer than one hundred (100) feet from the property line of the premises, nor shall any privy be maintained in such a way as to cause any health hazard or public nuisance. (Ord. of 9-19-77)

Sec. 26-28. Exception for private sewage system.

Where the public sewer does not abut the premises upon which the building is located or where the public sewer does abut the premises but does not extend to within two hundred (200) feet from the nearest point of the building, the public sewer shall be classified as inaccessible to any such building required to be provided with sanitary facilities under Section 26-5 of this Chapter; such building shall comply with the following:

- (a) The owner may at his own expense connect with the public sewer even though the building is over two hundred (200) feet from said public sewer;
- (b) Where liquid-carried wastes or wastewater result, they shall discharge into a private sewage disposal system as defined herein; or

- (c) Where liquid-carried wastes or wastewater result, they shall discharge in a private wastewater treatment works as defined herein. (Ord. of 9-19-77)

Sec. 26-29. Prohibited wastes.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sanitary sewers or, except as set forth in subsection (a) below, to any storm drains or any part thereof:

- (a) Water from roof downspouts, foundation drains, or areaway drains, or other sources of surface runoff or groundwater; nor discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters, except into storm drains.
- (b) Any gasoline, benzene, naphtha, fuel, oil or other flammable or explosive liquid, solid or gas.
- (c) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, as determined by the City Engineer, either singularly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of any wastewater treatment plant now or in the future to be treating wastewater from the City; including, but not limited to those as defined in standards issued from time to time under Section 307 (a) of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500.
- (d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics (including disposable diapers), wood, underground garbage, any whole or ground seafood shells, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground.
- (e) Any slug of wastes as defined in Section 26-4, subsection (dd).
- (f) In the case of a “major contributing industry” containing an “incompatible pollutant” in an amount or concentration in excess of that allowed under standards or guidelines issued from time to time pursuant to Sections 304, 306, and/or 307 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500. (Ord. of 9-19-77)

Sec. 26-30. Prohibition of wastes.

The City Engineer may prohibit the discharge of the following wastes if any discharge is, in his opinion, of sufficient quantity to create a hazard, public nuisance or deleterious effect upon receiving waters or the waste treatment facilities:

- (a) Any hexavalent chromium, aluminum, iron, tin, fluorides, arsenic, phenols, chlorides or sulfates. In addition, those metals specified in 40 CFR 433.17 shall not exceed the concentrations therein listed.

WESTBROOK CODE

<i>Metal Milligrams per Liter</i>	<i>Maximum for any One Day</i>	<i>Average of Daily Values for 30 Consecutive Days shall not exceed</i>
Cadmium	0.064	0.016
Chromium	2087	0.80
Copper	3072	1.09
Lead	0.67	0.23
Nickel	3.51	1.26
Silver	0.44	0.13
Zinc	2.64	0.80
Mercury	0.00	0.00

- (b) Any reducing substances having an immediate chlorine demand exceeding 30.0 mg/l.
- (c) Any radioactive wastes greater than allowable releases as specified by current U.S. Bureau of Standards Handbooks dealing with the handling and release of radioactivity.
- (d) Any waters or wastes containing any combination of solids, liquids, or gases listed in this section but at concentrations not prohibited when such commingled waters or wastes shall yield a concentration of contamination which the City Engineer deems detrimental to the wastewater works or wastewater treatment processes.
- (e) Any waters or wastes which cause corrosive structural damage to the sewers or treatment works including, but not limited to any wastes having a concentration of caustic alkalinity exceeding 1000 mg/l, or all wastes with a pH lower than 5.0.
- (f) Any liquid or vapor other than water having a temperature higher than one hundred-fifty (150) degrees Fahrenheit (65 C).
- (g) Any waters or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l, or containing substances which may solidify or become viscous at containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred-fifty (150) degrees Fahrenheit (0 and 65 C).
- (h) Any waters or wastes containing suspended solids exceeding a concentration of 400 mg/l, or dissolved solids of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment plant or in the public wastewater works.
- (i) Any waters or wastes having any color that is not removable in the existing treatment plant processes.
- (j) Any waters or wastes having an average B.O.D. in excess of 400 mg/l.
- (k) Any waters or wastes having an average C.O.D. in excess of 600 mg/l. (Ord. of 9-19-77; Ord. of 6-14-82; Ord. of 5-16-83)

Sec. 26-31. Discharge of prohibited waste.

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters or wastes contain any of the substances or possess the characteristics listed in sections 26-29 or 26-30 of this Chapter, the City Engineer may:

- (a) Reject the wastes, or

(b)

(1) Require pretreatment to an acceptable condition for discharge to the public sewer, and/or

(2) Require control over the quantities and rates of discharge (flow equalization), and/or

(3) Require payment to cover the added cost of handling and treating the wastes.

If the City Engineer elects to require pretreatment, flow equalization and/or additional payment, such action must be approved by the sewer commission if such course of action is to continue for more than ninety (90) days.

If the City Engineer permits or requires pretreatment and/or wastes flow equalization, the design and installation of the waste treatment facilities and equipment shall be subject to his review and approval to assure that the system will perform as required.

Where preliminary treatment and/or flow equalizing facilities are provided for any water or wastes, the owner shall bear the cost and responsibility for installing and maintaining them in continuously satisfactory and effective operating condition, determined by the City Engineer. (Ord. of 9-19-77)

Sec. 26-32. Control manholes, industrial monitoring and records required.

(a) When required by the City Engineer, the owner or his agent of any property serviced by a building sewer carrying industrial wastes to a public sewer shall install a suitable control manhole with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans reviewed and approved by the City Engineer. Such manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(b) The owner (or his agent) of such property shall perform such monitoring of its industrial discharge as the City Engineer may reasonably require, including the installation and maintenance of monitoring equipment, and shall keep records of the results of such monitoring and report the results of such monitoring to the City Engineer. Such records shall be made available by the City Engineer to the Portland Water District, to the Maine Department of Environmental Protection and to the regional administrator of the United States Environmental Protection Agency upon request. All such records shall be retained by the owner or his agent for a minimum of three (3) years, and prior to the destruction of any such records, the City Engineer shall be notified. He may require the delivery to his office of any such records proposed to be destroyed which he feels may aid him in the discharge of his duties under this Chapter.

(c) The City Engineer and other duly authorized employees of the City, bearing proper credentials and identifications, shall have access to and shall be permitted to copy any records required under this section of this Chapter. (Ord. of 9-19-77)

Sec. 26-33. Separate systems required.

Any person discharging or causing to be discharged into any public sewer, both sanitary sewage and industrial wastes from any building or premises, may be required to install separate drainage systems for the sanitary sewage and industrial waste. The control manhole required under Section 26-32 of this Chapter shall be installed in the industrial waste system; or where two (2) separate systems are required, the two (2) systems may be joined in the control manhole, provided that samples from each system can be separately obtained. (Ord. of 9-19-77)

Sec. 26-34. Testing of waters and wastes.

- (a) All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in this Chapter shall be determined in accordance with the latest edition of "Standard Methods for Examination of Water and Wastewater", and shall be determined at the control manhole provided for under Section 26-32 of this Chapter, or from suitable samples taken from such manhole.
- (b) All sampling and testing shall be carried out by a qualified person(s), and the method and sampling and quality of testing done is subject to approval of the City Engineer. Any users of public sewers discharging or causing to be discharged into such public sewers any industrial wastes shall provide the City Engineer with samples, when requested, from the user's control manhole.
- (c) All such sampling and testing shall be at the expense of the owner or his agent. (Ord. of 9-19-77)

Sec. 26-35. Special agreements.

None of the provisions of this Chapter shall be construed as preventing or prohibiting any special agreement or arrangement, if approved by the Westbrook Sewer Commission and the Westbrook City Council, between the City and any sewer user whereby an industrial or process water or waste of unusual strength or character may be accepted by the City in public sewers for treatment, subject to the terms of the special agreements, and payment of the cost thereof by such user; provided that such agreements do not contravene any requirements of existing federal laws and are compatible with any user charge and industrial cost recovery system in effect. (Ord. of 9-19-77)

Sec. 26-36. Exclusion of industrial wastes.

Whenever it appears that the treatment plant operation is being adversely affected by an unusual discharge which cannot be readily traced by other means, the City Engineer, with the approval of the Mayor, shall have authority to temporarily exclude any industrial or commercial waste, whether pretreated or not, from the public sewer system, if he has reasonable cause to believe that the said industrial or commercial waste is responsible for the adverse effect upon the treatment plant, for the purpose of locating the source of such discharge and of determining the effects of such wastes upon the sewers, wastewater treatment works and/or the wastewater treatment plants. (Ord. of 9-19-77)

Sec. 26-37. Written notice required; when.

Forty-five (45) days' written notice shall be given to the City Engineer by any person or persons proposing to:

- (a) Substantially change the volume or character of pollutants over that being discharged into the treatment system at time of enactment of this Chapter.
- (b) Create a new discharge into the treatment system of pollutants from any source which would be a new source as defined in Section 306 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, if such source were discharging pollutants elsewhere. (Ord. of 9-19-77)
- (c) Create a new discharge into the treatment system of pollutants from any source which would be subject to Section 301 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, if it were discharging such pollutants elsewhere. (Ord. of 9-19-77)

Sec. 26-38. Enforcement.

Any person failing to comply with or violating any provision of this Chapter shall be notified by the City Engineer or his designee, stating the nature of the failure or violation and providing the user a reasonable time to permanently cease or correct all such failures or violations. Any person who shall continue such failures or violation beyond such compliance period shall be guilty of an offense and shall be subject to the general penalty provisions contained herein. Industrial users who are in noncompliance with pretreatment standards and requirements shall be assessed a civil or criminal penalty in at least the amount of \$1,000.00 a day for each violation. The Portland Water District, as the designated regional agency responsible for wastewater treatment, is hereby authorized also to seek such penalties.

In addition, any person violating the provisions of this Chapter shall be liable for any expense, loss, or damage incurred by reason of such noncompliance. The City may seek injunctive relief for the purpose of enforcing this Chapter. (Ord.; of 9-19-77; Ord. of 5-16-83; Ord. of 11-20-89)

Sec. 26-39. Appeal.

- (a) Whenever the recipient of such notice as provided for in Section 26-38 above, shall disagree as to the facts of the situation or the applicability or interpretation of this Chapter, said person may file an appeal to the Westbrook Sewer commission within ten (10) days of the date of the written notice, and said person shall be afforded a hearing on the matter before the Commission. The Commission may affirm the decision of the City Engineer, or by a two-thirds (2/3) vote of their membership may reverse the decision of the City Engineer, and may permit exceptions to or a variance from the specific provisions of this Chapter to prevent undue hardship, subject always to the rule that the Commission shall give due consideration to the purposes of this Chapter in promoting the public health, safety and welfare. However, the recipient of said notice shall comply with the decision of the City Engineer until such decision is reversed or modified by the Commission.

- (b) A further right of appeal shall lie to the City Council if filed within ten (10) days from the date of the hearing before the Sewer Commission. The City Council may affirm the action of the City Engineer⁵ and/or the Westbrook Sewer Commission, or by a two-thirds (2/3) vote may reverse said action, and may permit exceptions to or a variance from the specific provisions of this Chapter subject to the same limitations and conditions as above for appeal to the Sewer Commission. (Ord. of 9-19-77)

Sec. 26-40. Permit required; form, fee, expiration.

All dischargers of wastes other than domestic wastewater are required to obtain a permit from the City Engineer. All permits and applications for permits shall be in a form determined by the City Engineer and shall include a minimum application fee of twenty-five dollars (\$25.00). In cases where the City incurs administrative or outside professional costs in preparing such applications, the City Engineer shall charge such costs directly to the applicant. The City engineer shall establish an expiration date for each permit, which date is no longer than five (5) years. Such permits shall require compliance with all pretreatment standards and may include other requirements imposed by the City Engineer. (Ord. of 5-16-83)

Secs. 26-45. Reserved.

Sec. 26-46. Compensation for sewer line easements.

- (a) Each owner who conveys an easement for sewer line construction and maintenance shall be paid five cents (\$0.05) per square foot or one dollar (\$1.00) per lineal foot, whichever is greater, unless a greater diminution of value is shown.
- (b) The burden of showing such greater diminution of value shall be on the individual property owner to be made at a hearing before the accounts claims, ethical standards committee of the City within thirty (30) days of the date of written notice to the owner that said easement is required. Said committee may extend this period for an additional thirty (30) days upon showing of good cause. (Ord. of 9-19-77)

Sec. 26-47 – 26-49. Reserved.

ARTICLE II. SEWER ASSESSMENTS

Sec. 26-50. Sewer Commission to report to Municipal Officers.

Pursuant to the provisions of Section 15-D of the Westbrook City Charter, whenever any extension to the sewerage system is completed, the Westbrook Sewer Commission shall make a report to the Municipal Officers within sixty (60) days after final acceptance of the work by the City Engineer. (Ord. of 3-28-77)

Sec. 26-51. Contents of the report.

The report from the Sewer Commission shall include a list or schedule of each property benefited by the sewer line with the owner's name and address, tax map references and recommended assessment. These figures and lists or schedules shall be accompanied by a brief explanation of the methods used to arrive at the figures and the reasons for the Commission's recommendations. (Ord. of 3-28-77)

Sec. 26-52. Municipal Officers to set public hearing date.

Within thirty (30) days of the receipt of the report required by Section 26-50, the Municipal Officers shall review the recommendations of the Sewer Commission, determine which lots are benefited and assess against such lots such sum not exceeding such benefit as they deem just and equitable and set a date for a public hearing as required by Title 30, Maine Revised Statutes Annotated, Section 4451, shall be given. (Ord. of 3-28-77)

Sec. 26-53. Corrections to assessment lists.

If for any reason a person so assessed believes there is any error in the assessment made or that his lot is not benefited as assessed, he may, prior to the date of the public hearing, contact the City Engineer who shall review the assessment. The City Engineer may recommend to the Municipal Officers that they change such assessments where he determines that an error was made or that the lot is not benefited as assessed. (Ord. of 3-28-77)

Chapter 27
SEWER USER FEES AND INDUSTRIAL COST RECOVERY⁵⁴

Sec. 27-1. Definitions.

All words not defined herein, or in Chapter 26, Section 26-4 in this Code of Ordinances, shall have their normal meaning or such meaning as may be in common use in the field of sanitation and wastewater treatment.

- (a) Billing period shall mean that period corresponding to the billing period of the Portland Water District.
- (b) Sewer user shall mean the person owning or occupying any building required by Section 26-6 of this Code of Ordinances to connect to the public sewer, or which is in fact connected to the public sewer and in whose name the Portland Water District bills are rendered, provided that where such bills are rendered to a person who is not the owner, the City may elect to treat the owner of such property as the sewer user. Where no Portland Water District water service is rendered to property, which is subject to said Section 26-6 or is in fact connected to a public sewer, the sewer user shall be considered to be the owner. (Ord. of 9-19-77)

Sec. 26-2. Sewer user charges.

- (a) The City Council, after receiving the recommendations of the sewer commission, shall establish a schedule of fees or charges to be levied against all sewer users to meet the costs of collection and treatment of sewage and the costs of operation and maintenance of the wastewater treatment works.
- (b) The sewer user fee schedule shall be on file with the City Clerk and the City Engineer.
- (c) .(1) The charge shall be based on the amount of water, estimated or measured, as shown on the records of the Portland Water District, provided to the sewer user during the previous billing period; provided, however, that where water is obtained from a source or sources other than the Portland Water District, whether or not Portland Water District also supplies water, the computation shall include the amount of water obtained from all such other sources, unless the user establishes to the satisfaction of the City Engineer that the water from other sources is not entering the sewer system. The City Engineer may require additional metering, either of water sources or of the sewer outflow, to be installed and maintained at the owner's expense where, in his opinion, such metering is required to accurately measure the volume of wastewater entering the sewer system.
- (4) There shall be a ready-to-serve charge equal to the minimum sewer user fee as provided in subsection (d) for those users who have not connected to the public sewer system. The payment of such charge in no way affects the obligation of the owner of such property to connect to the public sewer system in

⁵⁴ **Cross references** – Sanitary facilities, sewers and wastewater treatment generally, Ch. 26; fees, Sec. 26-13.

conformance with this Article. These funds can be used only for payment of debt service.

- (d) Each sewer user shall pay a minimum sewer user service fee regardless of actual water usage. Such minimum fee shall be based on a minimum of one thousand two hundred (1,200) cubic feet of water per quarter. (Ord. of 9-19-77)

Sec. 27-3. Industrial surcharges.

The City Council, after receiving the recommendations of the City Engineer and the sewer commission, may establish a schedule of industrial surcharges to cover the added cost of handling and treating any of the wastes enumerated in Sections 26-29 and 26-30 of this Code of Ordinances. (Ord. of 9-19-77)

Sec. 27-4. Industrial cost recovery.

- (a) All persons discharging industrial wastes or commercial wastes which average one thousand (1,000) or more gallons per day, shall be subject to industrial cost recovery under this section, as required by federal law, in addition to sewer user fees and any industrial waste surcharges.
- (b) The City Council, after receiving the recommendations of the City Engineer and the Sewer Commission, shall establish schedule of charges to industrial and commercial users which shall be based upon the volume of wastes and the quantity of B.O.D. and suspended solids contained in the wastes to insure that each such user pays its proportionate share of the cost of the treatment works allocable to such industrial and commercial users. (Ord. of 9-19-77)

Sec. 27-5. Billing and collections.

- (a) Bills shall be rendered at the close of each billing period and shall include a statement of the volume of water usage and other applicable information.
- (b) Bills shall be due and payable upon receipt. Interest at the same rate as that established for unpaid property taxes shall be added to all unpaid bills beginning thirty (30) days after the date of the bill.
- (c) In accordance with the provision of Section 15-F of the City Charter, there shall be a lien on the property served, or to which service is available, to secure payment of the charges and fees established herein, which shall take precedence over all other claims on such real estate, excepting only claims for taxes. In addition, the City Solicitor and/or City Treasurer is hereby authorized to enforce collection of delinquent charges and fees as established herein by any method provided under the general laws of the State for the collection of charges and assessments for public sewers by a special tax assessment, and to maintain a civil action for the collection of same as provided in Section 15-G of the City Charter.
- (d) Nothing contained in this Chapter shall in any way limit the City's authority to contract with the Portland Water District for the billing and collection of the charges and fees established herein, or to contract with individual sewer users pursuant to Section 26-35 of this Code of Ordinances. (Ord. of 9-19-77)

Sec. 27-6. Review of user charges.

- (a) Any person aggrieved by the imposition of any charge authorized by this Chapter may petition the City Engineer in writing for a review of such charges. Such application must be filed at the Engineering Department within thirty (30) days of the charge sought to be reviewed and shall state all of the reasons for the review.
- (b) The City Engineer may review and adjust such user charges as he deems appropriate within the intent of this Chapter and Chapter 26 of the Code of Ordinances. He shall modify such charges only after the petitioner has shown through affirmative proof that:
 - (1) The volume of water consumed exceeds the volume of sewage generated by the unit;
 - (2) The difference between the volume of water and of sewage exceeds fifteen (15) percent of the metered water measurement;
 - (3) The amount of the difference can be established to a substantial certainty by reliable tests or is documented by reliable sources prepared for purposes unconnected with sewer disposal;
 - (4) Initial measurement by submeters was impossible or impracticable.
- (c) As part of his application, the user shall supply his Portland Water District account number, evidence of his water consumption in hundreds of cubic feet for the most recent quarter as well as the previous three (3) quarters, and explanation of where or by whom the additional waters were used, e.g. swimming pool filling, washing cars, watering lawns and an estimate of approximate usage.
- (d) Abatements shall not be considered for a user under the following circumstances:
 - (1) When the petition for review is of a similar nature to a previous request for a user charge adjustment.
 - (2) When the application submitted does not reflect the true consumption records of the Portland Water District or is otherwise incomplete.
- (e) Notwithstanding the submetering provisions of Section 27-2 (c) (1), any sewer user who may seek a second or successive adjustment of a sewer bill shall be required first to install an additional meter to measure the volume of water which can be shown not to enter the sewerage system. The sewer user, following approval of an installation application by the City Engineer, shall own, install, and maintain this metering device. The person to be charged will receive his adjusted sewer billing directly from the Portland Water District.
- (f) Persons aggrieved by a misread meter reading, meter malfunction, or similar sources of user billing error shall negotiate directly with the Portland Water District whose determination shall be final. Any other person requesting an abatement of user charges not covered by this Chapter may request a hearing following the procedures set forth in Sections 27-7 (b) and 27-7 (c). (Ord. of 12-10-84)

Sec. 27-7. Appeals.

- (a) Any person aggrieved by a determination made under the provisions of this Chapter, or any person questioning the amount of or the validity of any charge or fee

hereunder, shall first contact the City Engineer, who may make such adjustments as he deems appropriate and within the intent of this Chapter and Chapter 26 of this Code of Ordinances.

- (b) Any person dissatisfied with the action of the City Engineer may appeal in writing within ten (10) days to the Sewer Commission, which shall within thirty (30) days hold a hearing on the appeal. The Sewer Commission may affirm or amend the City Engineer's specific provisions of this Chapter to prevent undue hardship. The Commission may impose such conditions, as it deems necessary in furtherance of the intent and purposes of this Chapter, including but not limited to, a requirement for added water or sewerage flow metering and reporting.
- (c) A further right of appeal shall be to the City Council, which may affirm, reverse or modify the ruling of the Sewer Commission. Said appeal shall be filed in writing with the City Clerk within ten (10) days of the Sewer Commission action.
- (d) All such adjustments or decisions shall be given in writing and dated. (Ord. of 9-19-77)

Chapter 28
SITE PLAN REVIEW⁵⁵

Sec. 28-1. Short title.

This Chapter shall be known and may be cited as the “Site Plan Review Ordinance of the City of Westbrook”. (Ord. of 5-07-79)

Sec. 28-2. Purpose.

It is the purpose of this Chapter to provide for the review and approval of commercial, industrial, institutional and large multifamily residential developments to protect and enhance the environment; to assure adequate public services; to enhance the appeal of the City and to stabilize and improve property values thus encouraging the continued economic prosperity of the City: to assure adequate consideration of the property rights of the applicant and adjoining property owners; and assure adequate consideration of due process in the review of applications; thereby to protect the health, welfare and safety of the citizens of Westbrook. (Ord. of 5-07-79, Ord. of 1-10-95)

Sec. 28-3. Definitions.

Except where specifically defined herein, words used in this Chapter shall conform to definitions provided in the City of Westbrook Zoning Ordinance, as amended, or where not defined therein shall have their ordinary and customary meanings.

- (a) *Board*. The Planning Board of the City of Westbrook.
- (b) *New construction*. New construction shall include additions to existing structures where three thousand one hundred (3,100) square feet or more of floor space is being added. New construction shall also include alterations to a site where 5,000 square feet of total area is developed within the site.
- (c) *Owner*. Any person, firm, corporation or other legal entity, which controls a parcel of land by a fee or less than fee title, or is party to a valid contract or option to purchase said title. (Ord. of 5-07-79)

Sec. 28-4. Approval required.

- (a) All new construction of buildings having over three thousand one hundred (3,100) square feet of floor area for commercial, industrial or institutional use, or multifamily residential projects of four (4) units or more, and alteration to a site where 5,000 square feet of total area is developed shall be subject to site plan review. No building permit shall be issued until the plans, drawings, sketches and other documents required under Section 28-7 herein have been reviewed and approved by the Planning Board in accordance with the criteria and standards specified in Section 28-6 herein.
- (b) Construction, site development and landscaping shall be carried out in substantial accord with the plans, drawings, sketches and other documents as identified in the

⁵⁵ **Revised** – Ord. of 2-06-95

Site Plan Review criteria and standards approved by the Board, unless amended with Board approval. (Ord. of 5-07-79)

Cross references – Planning Board, Sec. 2-265 et seq.; buildings, Ch. 6; fire limits, Sec. 6-2.1(i.); electricity, Ch. 11; fire protection and prevention, Ch. 13; housing, Ch. 17; mobile homes and mobile home parks, Ch. 21; parks and recreation, Ch. 23; plumbing, Ch. 24; sanitary facilities, sewers, etc., Ch. 26; streets and sidewalks, Ch. 29; subdivisions, Ch. 30; traffic, Ch. 31; trees, Ch. 32; zoning, Part III.

Sec. 28-5. Administration.

- (a) The following procedures and requirements shall apply to all applications for site plan review:
- (1) All applications for site plan review shall be made in writing to the Planning Board through the Code Enforcement Officer's Office on forms provided for this purpose. The application shall be made by the owner of the property or his/her agent, duly authorized in writing, and shall be accompanied by the payment of an application fee of five hundred dollars (\$500.00), plus advertising, to the City of Westbrook to cover the administrative costs of processing the application for site plan review, which together with the documentation required, shall be placed on the Planning Board's agenda within thirty (30) days of receipt of a complete application; an incomplete application shall be returned to the applicant. The application shall not be placed on the Planning Board agenda until determined to be complete by the staff with an indication of the additional information required. Prior to taking final action on any site plan review application, the Board may hold a hearing to afford the public the opportunity to comment on the application.
 - (2) Within sixty (60) days of the receipt of a completed application, the Board shall act to approve or disapprove the site plan unless a public hearing is held or unless an application is amended, in which case the board shall act within thirty (30) days of the date of such public hearing or amendment. The time within which the Board must act may be extended for an additional thirty (30) days upon request by the applicant.
If the Board does not act to approve or disapprove the application within this period, the site plan shall be deemed to have been disapproved. If the Board shall vote to disapprove an application, the owner or his/her authorized agent shall be notified in writing and the specific causes of disapproval shall be noted.
 - (3) Abutting property owners shall be notified by mail of a pending application for site plan review. This notice shall indicate the time, date and place of Planning Board consideration of the application.
 - (4) One copy of the approved site plan shall be included in the application for a building permit.
 - (5) Prior to filing the site plan review application, an owner or his authorized agent may request a preliminary review of the site plan by the Planning Board to determine its compliance with City regulations. Such preliminary review shall not constitute approval of any site plan that may be developed and subsequently submitted.

- (b) The Planning Board may require the posting, prior to final approval of any site plan, of a bond, irrevocable letter of credit, escrow agreement, or other surety in such amount as is approved by the Board, after considering the recommendation of the City Engineer, as being reasonably necessary to insure completion of all improvements required as conditions to approval of such plan, in such form as approved by the Board and the City Solicitor.
- (c) The Planning Board may require the owner or his authorized agent to deposit in escrow with the City an amount of money not to exceed one thousand dollars (\$1,000.00) to cover the cost of any independent professional review of the site plan or any aspect thereof which, due to the size or nature of the project, the Board feels is necessary to further the interests and purposes of this Chapter.
This escrow payment shall be made prior to the engagement of any outside consultant and any excess remaining after deducting the final cost of said consultant's services shall be returned to the owner or his agent within thirty (30) days of the date of approval or denial of the site plan or within thirty (30) days of receipt of a final bill for such services, whichever is later.
- (d) Prior to applying for a building permit or commencing any site work or utility work for a project for which site plan approval has been granted, the applicant shall pay a project inspection fee to the Building Inspector. This fee shall be fifty dollars (\$50.00) plus two (2) percent of the total estimated cost of the following improvements as determined by the City Engineer.
 - (1) All site work, including grading, filling and clearing;
 - (2) All utility work, both on and off the site;
 - (3) All construction of roads, drives, service areas, parking lots, sidewalks and similar facilities;
 - (4) All drainage improvements;
 - (5) All erosion and sedimentation control measures;
 - (6) All landscaping and buffering;
 - (7) Any other activity required as a condition of approval.This fee shall be paid in cash or by certified or cashier's check. The project inspection fee shall be nonrefundable and shall be used to defray the City's costs in assuring that the project is built in accordance with the approved site plan. (Ord. of 5-07-79; Ord. of 3-03-86; Ord. of 11-07-88, Sec. A; Ord. of 1-22-91)

Sec. 28-6. Criteria and standards.

The following criteria and standards shall be utilized by the Planning Board in reviewing applications for site plan review. These standards are intended to provide a guide for the applicant in the development of site and building plans as well as a method of review for the Board. Strict compliance with the requirements of these standards may be waived when in the judgment of the Board such action is in the public interest and not contrary to the intent and purposes of this Chapter. These standards are not intended to discourage creativity, invention and innovation in the development of site plans.

- (1) *Preservation of landscape.* The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, retaining existing

vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas.

- (2) *Parking and circulation.* The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall consider interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and the arrangement and use of parking areas. These facilities shall be safe and convenient and, insofar as practicable, shall not detract from the proposed buildings and neighboring properties. The requirements of Section XVIII, “Off-Street Parking and Loading Regulations”, of the zoning ordinance of the City of Westbrook shall be complied with unless waived or varied pursuant to the provisions contained in said zoning ordinance.
- (3) *Surface water drainage.* Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions, or the public storm drainage system. On-site absorption shall be utilized to minimize discharges whenever possible.
- (4) *Utilities.* Utility lines shall be installed underground unless waived by the Board. Any utility installations above ground shall be located so as to have a harmonious relationship with neighboring properties and the site.
- (5) *Advertising features.* The size, locations, design, color, texture, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties, and shall conform to the provisions of Section XIX, “Sign Regulations”, of the zoning ordinance of the City of Westbrook unless waived or varied pursuant to the provisions contained in said zoning ordinance.
- (6) *Special features.* Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.
- (7) *Exterior lighting.* All exterior lighting shall be designed to providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
- (8) *Emergency Vehicle Access.* Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
- (9) *Landscaping.* Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public rights-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Where applicable, the provisions of Section XX, “Buffer Area”, of the zoning ordinance of the City of Westbrook shall be complied with unless waived or varied pursuant to the provisions of said zoning ordinance.
- (10) *Compliance with other regulations.* The development shall be in full compliance with all other applicable regulations of the City of Westbrook. Special attention is called to the air and water pollution and noise standards of the zoning ordinance. (Ord. of 5-07-79)

Sec. 28-7. Submission requirements.

- (A) When the owner of the property or his/her authorized agent makes formal application for site plan review, his/her application shall contain at least the following exhibits and information:
- (1) A fully executed and signed copy of the application for site plan review.
 - (2) Ten (10) copies of a site plan drawn at a scale sufficient to allow review of the items listed under the preceding general standards, but at not more than fifty (50) feet to the inch for that portion of the total tract of land being proposed for development, and showing the following:
 - (a) Owners name and address;
 - (b) Names and addresses of all abutting property owners;
 - (c) Sketch map showing general location of the site within the City;
 - (d) Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;
 - (e) Zoning classification(s) of the property and the locations of zoning district boundaries if the property is located in two (2) or more zoning districts or abuts a different zone;
 - (f) The location of all building setbacks required by the zoning ordinance;
 - (g) The location of all existing and proposed buildings (including size and height), driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements and landscaping;
 - (h) The location of all buildings within fifty (50) feet of the parcel to be developed and the location of intersecting roads or driveways within two hundred (200) feet of the parcel;
 - (i) Vehicular access. The proposed site layout shall detail the location, number, and control of access points, turning lanes, and existing or proposed traffic signalization and capacity of adjacent streets to handle increased traffic flows.
 - (3) Building plans showing, as a minimum, the first floor plan and all elevations.
 - (4) Copies of any proposed or existing easements, covenants, deed restrictions, etc.
 - (5) Copies of applicable State approvals and permits; provided, however, that the Board may approve site plans subject to the issuance of specified State licenses and permits in cases where it determines that it is not feasible for the applicant to obtain them at the time of site plan review.
- (B) The City Engineer may require the following submission where he determines, due to the scale of nature of the proposed development, that such information is necessary to assure compliance with the intent and purposes of this chapter:
- (1) Existing and proposed topography of the site at two-foot contour intervals.
 - (2) A stormwater drainage plan showing:
 - (a) The existing and proposed method of handling storm water run-off;
 - (b) The direction of flow of the run-off through the use of arrows;
 - (c) The location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, detention basins,

- (d) Engineering calculations used to determine drainage requirements based upon a ten-year storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.
- (3) A utility plan showing provisions for water supply and waste water disposal including the size and location of all piping, holding tanks, leach fields, etc., and showing the location and nature of all electrical, telephone and any other utility services to be installed on the site.
- (4) A planting schedule keyed to the site plan and indicating the varieties and sizes of trees, shrubs, and other plants to be planted on the site.
- (5) The bearings and distances of all property lines and the source of this information. The Board may waive the requirement of a formal boundary survey when sufficient information is available to establish, on the ground, all property boundaries.
- (6) The location, size and character of all signs and exterior lighting.
- (C) The Planning Board may waive any or the requirements of this section when it determines that the scale of the project is of such a magnitude or the project is of such a nature as to make the information unnecessary.
- (D) The approval of a site plan shall become void if substantial construction is not commenced within one (1) year of the date of such approval unless such time limit is extended by the Board. (Ord. of 5-07-79)

Sec. 28-8. Appeals.

An appeal from any order, relief, or denial of the Planning Board may be taken by any party to Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B. (Ord. of 5-07-79)

Sec. 28-9. Conflict with other ordinances.

Whenever the requirements of this Chapter are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply. (Ord. of 5-07-79)

Sec. 28-10. Separability.

In the event that any section, subsection, portion, or provision of this Chapter shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, portion or provision of this chapter. The provisions of this Chapter are hereby declared to be severable. (Ord. of 5-07-79; Revisions 1-10-96)

Chapter 29
STREETS AND SIDEWALKS⁵⁶

- Art. I. In General, Secs. 29-1 – 29-17.
- Art. II. Street and Construction Improvements, Secs. 29-18 – 29-53
 - Div. 1. Generally, Secs. 29-18 – 29-30
 - Div. 2. Specifications, Secs. 29-31 – 29-53
- Art. III. Sidewalks, Secs. 29-54 – 29-78
- Art. IV. Excavations, Secs. 29-79 – 29-120
- Art. V. Driving Installations and Alterations, Secs. 29-121 – 29-125

ARTICLE I. IN GENERAL

Sec. 29-1. Authorized delay of street acceptance.

Action on requests received in the period of November 15 through April 15 for acceptance of any street shall be delayed for one (1) year from the date of such request. (Ord. of 2-02-59, Sec. 3; Ord. of 7-10-67)

Sec. 29-2. Municipal Officers to have streets named, signs posted.

The Municipal Officers shall cause every public street within the City to be properly named, and the name of each shall be plainly printed and posted in a suitable and conspicuous place, and where one highway enters or crosses another, guide posts shall be erected and maintained as required by law.

Sec. 29-3. Municipal Officers to have dwellings, buildings numbered.

The Municipal Officers shall have power to cause numbers of regular series to be affixed to or inscribed on all dwelling houses and other buildings fronting on any street or highway at their discretion; and they shall determine the form, size and material of such numbers and the mode, place and succession of the inscription.

Sec. 29-4. Unlawful not to number dwellings, buildings when directed to do so.

No owner or occupant of a dwelling house, building or a part thereof shall refuse or neglect to comply with the duty designated by the Municipal Officers in regard to the numbering authorized by the preceding section of such dwelling house or building.

Sec. 29-5. Removal of snow from private property to streets.

⁵⁶ **Cross references** – Subdivisions, Ch. 30; zoning, Part III; conveyance of dead animals through streets, Sec. 4-5; permit, fee and bond for moving large objects through streets, Sec. 6-14; loitering in streets regulated, Sec. 22-2; games of chance prohibited, in streets, Sec. 22-4; games in streets not to interfere with traffic, Sec. 22-5.

No person shall lay, throw, place or plow or cause to be laid, thrown, placed or plowed, on or into any public street, any snow or ice from private property. If in the removal of snow or ice from private property it is necessary to temporarily place snow or ice on any public street, such snow or ice shall immediately be removed from the street by and at the expense of the person that caused it to be placed thereon. Provided, however, that a person shall lay, throw or place snow in the public streets only immediately prior to the plowing of the streets by the City. (1942 Rev. Code, Ch. XVI, Sec. 20; Ord. of 2-05-62)

Sec. 29-6. Depositing, placing of rubbish, refuse, etc., prohibited.

No person shall place, sweep or deposit any dirt, ashes, shavings, filth, rubbish or refuse or any kind in or upon any street, sidewalk, lane, alley or public place in the City. (1942 Rev. Code, Ch. XVI, Sec. 20; Ord. of 2-05-62)

Sec. 29-7. Drainage on streets prohibited.

No person shall empty or let out upon the surface of any street any cellar drain, sink drain, or other drain so that the water shall flow therefrom upon the surface of the street. (1942 Rev. Code, Ch. XVI, Sec. 8)

Sec. 29-8. Underground street lighting in development.

When underground service is to be installed by a developer in any present or proposed street for street lights and power facilities the following regulations shall apply:

- (a) The developer shall indicate on the plans for the development the proposed location of all underground wiring, also they type and location of all street light poles and fixtures, together with a letter or review from Central Maine Power Co., indicating its approval of the installation.
- (b) All special or ornamental light poles and/or street light fixtures must be of a type maintained in the Central Maine Power Co. inventory to assure their availability for future maintenance and replacement.
- (c) The plans for such installations must be approved by the Planning Board and the installation of all street light poles and light fixtures must be approved by the City Council.
- (d) The developer, in conjunction with Central Maine Power Co., shall install all such underground electric service, street light poles and light fixtures in accordance with the approved plan for such installations and subject to the approval of the City Engineer at no cost to the City.
- (e) All special or ornamental street light poles shall become the property of the City upon being installed by the developer and shall thereafter be maintained by the City at its expense.
- (f) When the development becomes occupied by residents or tenants, the City shall order electric service for such streetlights, which shall be provided by the City. (Ord. of 11-26-73)

Editor's note – Ord. of November 26, 1973, amended this Code by adding Sec. 20-121, which section was redesignated as Sec. 29-8 by the editors for purposes of classification.

Secs. 29-9 – 29-17. Reserved.

ARTICLE II. STREET CONSTRUCTION AND IMPROVEMENTS⁵⁷
DIVISION 1. GENERALLY

Sec. 29-18. Laying out, acceptance, extension of streets less than fifty feet wide.

- (a) No new street less than fifty (50) feet wide shall be laid out and accepted by the Council as a public street unless the same shall have been actually dedicated and constructed and used for public travel prior to February 2, 1959.
- (b) No street dedicated or constructed prior to February 2, 1959, shall be accepted nor any street previously accepted be extended in length which is of a width less than fifty (50) feet, unless the owners of the property adjoining and abutting such street shall deed to the City sufficient land to lay out a street of minimum width, excepting as hereinafter provided. (Ord. of 2-02-59, Sec. 1)

Sec. 29-19. Prerequisites to acceptance of previously constructed streets.

No street dedicated and constructed prior to February 2, 1959, shall be accepted by the Council until a plan of such proposed public street is recorded in the Cumberland County Registry of Deeds and in the Office of the City Engineer and shall meet whatever further requirements as may be properly established from time to time. (Ord. of 2-02-59, Sec. 1)

Sec. 29-20. Acceptance of streets with minimum width of thirty feet.

Any street constructed, dedicated and used for public travel prior to February 2, 1959, may be accepted with a minimum width of thirty (30) feet provided such street has an outlet at both ends into a public street of the City. (Ord. of 2-02-59, Sec. 1)

Sec. 29-21. Prerequisites to acceptance of streets constructed on private land.

No street constructed on private lands by the owners or by virtue of any agreement with the owners thereof, shall be recommended by any committee or officer or agent or servant of the City to the Council for laying out or acceptance as a public street of the City, unless the same shall have been previously constructed in accordance with the specifications as set forth in this article and such specifications shall constitute the minimum requirements for the laying out and acceptance of such street. (Ord. of 2-02-59, Sec. 1)

Sec. 29-22. Public interest governs acceptance of streets.

⁵⁷ **Charter reference** – Council's exclusive authority to lay out, widen, alter or discontinue streets, Sec. 14.

Nothing in this article is to be construed as a limitation on the Council to accept any street in the City as a public street whenever the public interest so requires. (Ord. of 2-02-59, Sec. 1)

Sec. 29-23 – 29-30. Reserved.

DIVISION 2. SPECIFICATIONS

Sec. 29-31. Plan, plot to be filed with engineer; engineer to fix grades.

The plan and plot of every street to a scale of forty (40) feet to one (1) inch and to be on one (1) or more sheets of suitable paper not exceeding twenty-four (24) inches by thirty-six (36) inches in size, shall be filed in the Office of the City Engineer who shall fix the grades thereof. (Ord. of 2-02-59, Sec. 2(a))

Sec. 29-32. Contents of plot plan; boundary monuments regulated.

The plot plan required by the preceding section shall show the north point, the areas of all lots, the lengths of all lot lines, the location of ownership of all adjoining subdivisions and adjacent acreage, passageways, street lines, buildings, set boundary monuments, waterways, topography and natural drainage courses, all angles necessary for the plotting of such streets and lot lines and their reproduction on the ground, the distance to the nearest established street line and any buildings abutting on such street, together with the stations of their side lines.

The above mentioned boundary monuments shall not be less than six (6) inches square at the top, eight (8) inches square at the bottom and four (4) feet in length with no undue projections at the sides. (Ord. of 21-02-59, Sec. 2(a))

Sec. 29-33. Subgrade of streets, sidewalks; installation of underground utilities.

The entire area of a street shall be graded to a sub-grade of not less than twelve (12) inches for the roadway, except for soil conditions listed below requiring eighteen (18) inches and eight (8) inches for the sidewalk below the finished grade as shown on the plan profile and cross-section as provided for in this article. Eighteen (18) inches shall be required when sub-base is composed of soft clay, silt, organic material, running sand and ledge.

All underground utilities to serve such street, the buildings, residents and occupants shall be installed at this time or proper and consistent provision made for same. (Ord. of 2-02-59, Secs. 2(a), 2(e))

Sec. 29-34. Contents of profile; to be filed with engineer.

A profile of a proposed street drawn to a longitudinal scale of forty (40) feet to one (1) inch and a vertical scale of four (4) feet to one (1) inch shall show the profile of the side lines and center lines of such street and the proposed grades thereof. Any building abutting on such street shall also be shown on the profile.

Such profile shall be filed with the Office of the City Engineer, who shall fix the grades thereof. (Ord. of 2-02-59, Sec. 2(b))

Sec. 29-35. Cross-section of streets to be filed; required scale of cross-section.

A cross-section of a proposed street, drawn to a horizontal scale of five (5) feet to one (1) inch and a vertical scale of one (1) foot to one (1) inch shall be filed with the Office of the City Engineer. (Ord. of 2-02-59, Sec. 2(c))

Sec. 29-36. Copy of plan, profile to be filed with Planning Board, sewerage division.

A copy of the plan and profile required by this article shall be filed with the Planning Board for its consideration and approval. Such plan and profile shall also be filed with the Westbrook sewerage Division, which shall designate the design, grades and capacity of its sewerage system as it shall apply and as may be determined by its commissioners. (Ord. of 2-02-59, Sec. 2(d))

Sec. 29-37. Construction requirements generally.

Every new street shall be constructed to its full width and length and shall conform accurately to the grades and cross sections as determined by the City Engineer and shown on the plan and profile hereinbefore mentioned. The entire area of every such street shall be first cleared of all stumps, roots, brush and all perishable materials and of all trees not intended for preservation and of all other matter and material not necessary and useful for such purpose. All loam and loamy materials, as well as clay, shall be removed from the limits of the street, inclusive of sidewalks to such depths as may be approved by the City Engineer. (Ord. of 2-02-59, Sec. 2(e))

Sec. 29-38. Requirements for sewers prior to acceptance of streets.

Before acceptance, the plan and profile of a proposed street shall be filed with the Westbrook Sewerage Division, which shall determine the feasibility of the construction of a sewer and if such construction is deemed advisable by the commissioners of the division, said construction of the sewer shall become a condition to the final acceptance of such street. No street in which there is constructed a private or common sewer or drain shall be accepted as a public street until such drain or sewer has been properly conveyed by proper instrument of transfer to the division, its successors and assigns. (Ord. of 2-02-59, Sec. 2(f))

Sec. 29-39. Water mains required prior to acceptance of streets.

Before acceptance of a new street, a water main of at least eight (8) inches in diameter must exist in such street. Provided, however, that the Council may accept as a public street, a street with a water main therein less than eight(8) inches in diameter when the Chief Engineer of the Fire Department, the Planning Board and the Portland Water District, each in writing, do certify that a water main of less than the prescribed eight (8)

inches in diameter will furnish adequate water service and sufficient fire protection service will prevail for the street to be accepted and for any future extension or extensions of such street. (Ord. of 2-02-59, Sec. 2(g))

Sec. 29-40. Streets, sidewalks brought to finished grade; requirements of materials.

After the sewer and other utilities have been constructed, the entire area of the street shall be brought to a finish grade as mentioned, and properly compacted in lifts of not over six (6) inches each to the satisfaction of the City Engineer. The roadway shall be graded for a minimum width of thirty (30) feet with a good, heavy binding gravel or crushed stone specified as follows: This gravel or crushed stone shall be furnished from sources approved by the City Engineer and may be bank run gravel. The gravel shall be composed of hard, sound, durable fragments of rock, having uniform resistance to abrasion, together with fine material, such as sand, clay or other material approved as a binder by the City Engineer.

The sidewalks shall be graded with gravel and the planting spaces or esplanades shall be graded with loam where required. (Ord. of 2-02-59, Sec. 2(h))

Sec. 29-41. Previously constructed streets to be free of stumps, etc.; engineer to regulate culverts, waterways.

The entire area of streets dedicated and constructed prior to February 2, 1959, shall be free from stumps, roots, brush, perishable material and ledge. All culverts and waterways considered necessary by the City Engineer, shall be constructed of a size and in a manner satisfactory to the City Engineer. (Ord. of 2-02-59, Sec. 2(I))

Sec. 29-42. Dead-end streets.

After February 2, 1959, no dead-end street or way shall be constructed for acceptance by the City as a public street, unless the same shall not be more than five hundred (500) feet in length, and shall have a suitable turnaround area at the end. When a circle is used, it shall have a minimum radius of fifty (50) feet.

Compliance with the above conditions and specifications will render a street, constructed on private land by the owners thereof, eligible for consideration by the council for laying out and acceptance as a public street for the use of the City. (Ord. of 2-02-59, Sec. 3)

Sec. 29-43. Public hearing for aggrieved party.

Any person aggrieved by any of the provisions of this article may file, in writing, a brief statement of the cause of their grievance with the City Clerk. Notice of a public hearing before the Council on same shall be posted at least seven (7) days before a regular or special meeting of the Council at which hearing the complaining parties may come to be heard with any witnesses material to the issue. When all evidence has been heard and considered, the Council shall arrive at a final determination of such issue. (Ord. of 2-02-59, Sec. 4)

Sec. 29-44. – 29-53. Reserved.

ARTICLE III. SIDEWALKS⁵⁸

Sec. 29-54. Committee on highways to render information on future construction.

Whenever the Committee on Highways shall deem it for the interest of the City to construct any sidewalk, they shall ascertain as nearly as may be the probable cost of the same, together with the general description of location, width, material to be used, etc., and present the same to the Council. (1942 Rev. Code, Ch. XXVII, Sec. 2)

Sec. 29-55. Engineer to prepare plan, schedule of lots benefited; Mayor to make presentment to Council.

The City Engineer, acting under the authority of the Mayor, shall, after the construction of a sidewalk, prepare a plan showing all lots benefited by such sidewalk, the size of each lot, and the name of the owner, if known, shall be plainly marked on such plan. He shall also prepare a schedule of the betterments upon such lots as hereinafter provided in this article; and the Mayor shall present such plan with the accompanying schedule, cost of sidewalk, etc., to the Council as soon thereafter as practicable. (1942 Rev. Code, Ch. XXVII, Sec. 3)

Sec. 29-56. Procedure for determining assessments on lots benefited by sidewalks.

The amount to be assessed upon lots abutting any newly constructed sidewalk, or sidewalk hereafter constructed, shall be twenty percent (20%) of the cost of such sidewalk, meaning by this the cost of the material and expense of construction inclusive of the grading. (1942 Rev. Code, Ch. XXVII, Sec. 5)

Sec. 29-57. Municipal Officers to levy, certify assessment; Collector to collect.

The Municipal Officers shall, after giving a public hearing in respect to the provisions of the preceding section, proceed to levy the assessments upon the lots benefited, and such assessments shall be plainly marked upon the City Engineer's plan required by Section 29-55. The assessments shall be certified to the Collector of Taxes by the Council, and after such certification, the plan shall be placed in the Collector's custody, and he shall proceed to collect the same according to the provisions of the Charter. (1942 Rev. Code, Ch. XXVII, Secs. 4,6)

Charter reference – Sidewalks, Sec. 20.

Sec. 29-58. Recording of collection of assessment.

⁵⁸ **Charter reference** – Council's authority lay out, construct and regulate sidewalks, Sec. 14.

Cross reference – Spitting on sidewalks prohibited, Sec. 22-9.

State law reference – Municipal authority to establish and regulate the use of sidewalks, 30 M.R.S.A. Sec. 2151.

When an assessment required by the preceding section is paid, the Collector shall enter such payment, the date thereof and the name of the person making such payment on the plan of the lot on which such assessment is made, as well as in a book kept for the purpose. Such plan shall form a part of the records of the City. (1942 Rev. Code, Ch. XXVII, Sec. 4)

Sec. 29-59. Mayor to construct, repair.

The Mayor, through his subordinates, including a competent City Engineer, shall lay out, construct and repair all sidewalks that may be authorized by the Council. (1942 Rev. Code, Ch. XXVII, Sec. 1)

Sec. 29-60. Mayor to keep account of construction costs, render report to Council.

The Mayor shall keep or cause to be kept an accurate account of the expense of the construction of each sidewalk built, and report the same to the Council as soon after the completion of such sidewalk as practicable. (1942 Rev. Code, Ch. XXVII, Sec. 3)

Sec. 29-61. Minor repairs authorized without reference to Council.

The Mayor, through his subordinates, may make repairs on sidewalks to the extent not to exceed one hundred dollars (\$100.00) on any one (1) sidewalk without reference to the Council. (1942 Rev. Code, Ch. XXVII, Sec. 7)

Sec. 29-62. Maintenance expenses.

After a sidewalk is built, it shall be maintained at the expense of the City; provided that when any sidewalk shall require repairs in consequence of any defect in the cellar door, cellar windows, coat hole, cellar wall, or from any other cause within the control of the owner or occupant of the estate to which such sidewalk adjoins, then and in that case repairs shall be made at the expense of the owner or occupant of such estate. (1942 Rev. Code, Ch. XXVII, Sec. 10)

Sec. 29-63. Curbing.

All curbing for sidewalks shall be of first quality granite, and be at least six (6) feet long and of a uniform depth of not less than eighteen (18) inches, and not less than six (6) inches in width on the upper edge.

This section shall be enforced unless otherwise ordered by the Council in any particular instance. (1942 Rev. Code, Ch. XXVII, Sec. 8)

Sec. 29-64. Altering sidewalks, setting posts, trees on sidewalks, streets.

No person shall make any alteration in any sidewalk, or set any posts or trees on any of the sidewalks, or in any part of the street, without the consent of the Mayor. (1942 Rev. Code, Ch. XXVII, Sec. 9)

Sec. 29-65. Obstructing sidewalks.

No person shall, without a license or permit, pile, deposit or place any rubbish, wood, coal, merchandise or obstruction of any kind upon any sidewalk, nor so occupy or obstruct any sidewalk as to prevent the convenient use of the same by all passengers. (1942 Rev. Code, Ch. XVI, Sec. 2)

Sec. 29-66. Vehicles not to be propelled on sidewalks.

No person shall draw, propel or wheel any cart, sled or other vehicle or carriage, except children's carriages upon any sidewalk. (1942 Rev. Code, Ch. XVI, Sec. 5)

Cross reference – Riding bicycles on sidewalks prohibited, Sec. 5-20.

Sec. 29-67. Duty to remove snow from footways, sidewalks; penalty.

The owner, tenant, occupant or any person having the care of any building or lot of land bordering on any street, in the business sections of the City, where there is any footway or sidewalk, shall within twenty-four (24) hours after the ceasing to fall of any snow, cause such snow to be removed from such footway, sidewalk, and, in default thereof, shall be subject to the penalty provisions of Section 1-8 of this Code. (1942 Rev. Code, Ch. XVI, Sec. 18; Ord. of 2-05-62)

Cross reference – Business or residence district defined, Sec. 31-2.

State law reference – Municipal authority to require snow removal from sidewalks, 30 M.R.S.A. Sec. 2151.

Sec. 29-68. Duty to remove, cover ice on sidewalks; penalty.

Whenever the sidewalk, or any part thereof, adjoining any building or lot of land on the streets of the business sections shall be encumbered with ice, it shall be the duty of the owner, tenant, occupant, or person having care of such building or lot to cause such sidewalk to be made safe and convenient by removing ice therefrom, or by covering the same with sand or some other suitable substance; and in case such owner, tenant, occupant, or other person shall neglect so to do, for the space of six (6) hours during the daytime, he shall be subject to the penalty provisions of section 1-8 of this Code. (1942 Rev. Code, Ch. XVI, Sec. 19; Ord. of 2-05-62)

Secs. 29-69 - 29-78. Reserved.

ARTICLE IV. EXCAVATIONS⁵⁹

Sec. 29-79. Title.

This article shall be known and may be cited as “The Street Excavation Ordinance of the City of Westbrook”. (Ord. of 11-02-70, Sec. 1)

Sec. 29-80. Definitions.

Applicant is any person making a written application to the City for an excavation permit and for whom the permit is to be issued.

City is the City of Westbrook.

City Engineer shall include the City Engineer and his authorized assistants under his direction and supervision.

Director of Public Works shall include the City’s Director of Public Works and his authorized assistants under his direction and supervision.

Permittee is any person who has been granted an excavation permit issued hereunder.

Person is any person, firm, partnership, association, corporation, company or organization of any kind.

Street is any street, highway, sidewalk, alley, avenue or other public passage way or public grounds in the City. (Ord. of 11-02-70, Sec. 2)

Sec. 29-81. Excavation permits required; to be issued only for excavations contained in annual planned work program, exceptions; limitation on time to commence work.

- (a) It shall be unlawful for any person to dig up, excavate, tunnel, undermine or in any manner break up any street, or to make or cause to be made any excavation in or under the surface of any street for any purpose, or to place, deposit or leave upon any street any earth or other material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained an excavation permit therefor from the Director of Public Works as herein provided.
- (b) Each year on or before March 31st, each utility shall submit to the Director of Public Works its planned work program for the ensuing year, which shall not include emergencies as defined in Section 29-111 herein nor normal house service lines. Thereafter, no permit shall be issued to a utility for excavations not contained within its planned work program, except for emergencies and normal house service lines, unless a written application for such excavation shall be specifically approved by the Director of Public Works.

⁵⁹ **Editor’s note** – As codified herein Ord. of November 2, 1970, Secs. 1-42, supercedes former Art. IV, Secs. 29-79 – 29-81, pertaining to excavations, derived from 1942 Rev. Code, Ch. XVI, Secs. 1, 1A, 1B; Ord. of February 2, 1959 and Ord. of March 19, 1969.

Cross reference – Regulations of excavations required for the installation of building sewers, Sec. 26-18 et seq.

State law reference – State regulations regarding excavations in cities, 23 M.R.S.A. Secs. 3351-3359.

- (c) Excavation work must be started no later than thirty (30) days from the date of issue of the excavation permit. After the expiration of this thirty (30) day period, such excavation permit shall become null and void and shall have to be renewed.
- (d) No person shall be granted a permit to excavate or open any street or sidewalk from the time of December 1st of each year to March 31st of the following year unless an emergency or special condition exists and permission is obtained in writing from the Director of Public Works. Any person wishing to obtain an excavation permit between these aforementioned dates shall first explain fully in writing the emergency or special condition to the Director of Public Works before issuance is granted. If a hazardous condition, which could endanger life and/or property, exists, excavation work shall not be delayed by this Section of this article, however, a written explanation shall be delivered to the City as soon as possible and a street opening permit obtained for the opening made. (Ord. of 11-02-70, Sec. 3; Ord. of 11-04-74)

Sec. 29-82. Application for permit.

- (a) No excavation permit shall be issued unless a written application for the issuance of same is submitted to the Director of Public Works.
- (b) The application shall state the name and address of the applicant, the nature, location and purpose of the excavation, the date of commencement and date of completion of excavation.
- (c) The application shall be accompanied by a plan or plans showing the extent of the proposed excavation work, including its location, the dimensions and elevations of the proposed excavated surfaces, and such other information as may be reasonably required by the Director of Public Works and/or the City Engineer.
- (d) The application shall be accompanied by proof of notice to the utilities as provided in 23 M.R.S.A. Section 3360, 1971. (Ord. of 11-02-70, Sec. 4; Ord. of 11-04-74)

Sec. 29-83. Excavation permit fees.

- (a) An application fee of twenty five dollars (\$25.00) shall be paid for each issuance and for each renewal of an excavation permit, and the following excavation permit fees are hereby established as being not in excess of the reasonable cost of replacement of the street and sidewalk openings:

NEWLY CONSTRUCTED OR RECONSTRUCTED AND NEWLY PAVED STREETS

Per Square Yard	First 25 Square Yards	Over 25 Square Yards
Bituminous concrete pavement 4 inches or more in depth	\$70.00	\$65.00
Bituminous concrete pavement less than 4 inches in depth	\$60.00	\$55.00

ALL OTHER STREETS

WESTBROOK CODE

Per Square Yard	First 25 Square Yards	Over 25 Square Yards
Bituminous concrete over concrete base, granite block base, or bituminous concrete base (total bituminous concrete 4 inches or more)	\$50.00	\$45.00
Portland cement concrete or granite block	\$29.00	\$26.00
Bituminous concrete over macadam base, or bituminous concrete (less than 4 inches) over gravel base	\$30.00	\$27.00
Bituminous macadam surface	\$45.00	\$40.00
Bituminous treated surface or shoulder	\$25.00	\$23.00
Plain gravel surface	\$6.00	\$5.00

SIDEWALK OPENING CHARGES
(Per Square Yard)

Brick sidewalk	\$25.00	\$25.00
Brick sidewalk on concrete base	\$48.00	\$48.00
Bituminous concrete sidewalk	\$20.00	\$20.00
Portland cement sidewalk	\$27.00	\$27.00
Gravel sidewalk	\$8.00	\$8.00
Esplanade (grass)	\$8.00	\$8.00

OTHER CHARGES

Bituminous concrete curbing, per linear foot	\$7.00
Granite curbing removal or realignment, per linear foot.....	\$16.00
Removing and replacing parking meters, each.....	\$14.00
Removing and replacing street name and traffic control signs, each	\$25.00
Replacement and installation of lost or damaged granite curb, per linear foot	\$20.00

- (b) An additional three hundred dollar (\$300.00) fee [shall] be charged for a non-emergency street or sidewalk opening within a five-year period of any major paving project, and all residents [shall] be notified by certified mail sixty (60) days prior to the start of major paving projects.
(Ord. of 11-02-70, Sec. 5; Ord. of 11-04-74; Ord. of 12-15-75; Ord. of 7-6-82; Ord. of 10-21-85; Ord. of 2-3-86; Ord. of 1-22-91)

Sec. 29-84. Minimum permit fee and special conditions.

- (a) There shall be a minimum permit fee for any street or sidewalk excavation equivalent to three (3) square yards at the above applicable rate per square yard.
- (b) Where three (3) or more street openings are made in sequence (15 feet or less, center to center, between each adjacent opening) the applicant shall be charged for one opening measured from the first opening to the last opening.
- (c) Where street openings exceed one hundred (100) square yards the applicant may request the City's permission to contract privately for the street or sidewalk repairs.

If the City agrees the applicant or private contractor shall post a bond for the estimated amount of street repair work must be done in accordance with City specifications and is subject to inspection by the Director of Public Works and/or the City Engineer. However, the City shall charge the applicant or contractor for its engineering and inspection charges incurred during the street excavation and repair work. (Ord. of 11-02-70, Sec. 6)

Sec. 29-85. Excavation placard to be posted.

- (a) Upon the approval of the application and the issuance of a permit the permittee shall be provided with a suitable placard which includes the following information for public notice:

CITY OF WESTBROOK
EXCAVATION PERMIT NO. –

ISSUED TO: _____
LOCATION OF WORK: _____

DATED: _____
EXPIRED ON: _____

- (b) It shall be the duty of the permittee and contractor to keep the placard posted in a conspicuous place at the site of the excavation work until it is completed.
- (c) It shall be unlawful for a person to exhibit such a placard at or about any excavation not covered by such permit or alter the date of expiration of the permit. However, the Director of Public Works may for good cause shown extend the expiration date and issue an amended permit and another placard showing the extended expiration date thereon. (Ord. of 11-02-70, Sec. 7)

Sec. 29-86. Deposit of permit fees.

All such excavation permit fees shall be paid to the City of Westbrook and shall constitute a special fund for the repair and repaving of such excavations. (Ord. of 11-02-70, Sec. 8; ord. of 11-04-74)

Sec. 29-87. Routing of traffic.

The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as nearly normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public, provided that the Chief of Police may permit the closing of streets to all traffic for a period of time prescribed by him if in his opinion it is necessary. The permittee shall route and control traffic including its own vehicles as directed by the City Police Department. The following steps shall be taken before any highway work is commenced which interferes with the normal flow of traffic:

- (a) The permittee must receive the approval of the City Engineer and the Police Department at least twenty-four (24) hours prior to the start of the work in non-emergency situations and prior to the start of work in emergency situations. The Chief of Police must approve all traffic control measures and he may prescribe other measures which he deems necessary to properly control and safeguard traffic;
- (b) The permittee must notify the Chief of Fire Department of any street so closed;
- (c) Upon completion of construction work, the permittee shall notify the City Engineer and City Police Department before traffic is moved back to its normal flow so that any necessary adjustments may be made;
- (d) Where flagmen are deemed necessary by the City Engineer or the Chief of Police, they shall be furnished by the permittee at its own expense. All such flagmen shall be subject to the approval of the Chief of Police. The Chief of Police may require that the permittee employ trained and experienced flagmen. Through traffic shall be maintained without the aid of detours, if possible. In instances in which this would not be feasible, the City Engineer will designate detours. The City shall maintain roadway surfaces of existing highways designated as detours without expense to the permittee shall construct all detours at its own expense and in conformity with the specifications of the City Engineer. The permittee will be responsible for any unnecessary damage caused to the highways by the operation of its equipment. (Ord. of 11-02-70, Sec. 9; Ord. of 8-15-77)

Sec. 29-88. Clearance for fire equipment.

The excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within fifteen (15) feet of fireplugs. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of piles of material or other obstructions. (Ord. of 11-02-70, Sec. 10)

Sec. 29-89. Protection of traffic.

The permittee shall erect and maintain suitable timber barriers to confine earth from trenches or other excavations in order to encroach upon highways as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and across highways under improvement to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular crossings shall be constructed and maintained of plank, timbers and blocking of adequate size to accommodate vehicular traffic safely. Decking shall be not less than four (4) inches thick, twelve (12) inches wide and of adequate length, together with necessary blocking. The walk shall be not less than three (3) feet in width and shall be provided with a railing as required by the City Engineer. (Ord. of 11-02-70, Sec. 11)

Sec. 29-90. Removal and protection of utilities.

The permittee shall not interfere with any existing utility other than their own facilities without the written consent of the City Engineer and the utility company or person

owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the City shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wire or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work. In case any of said pipes, conduits, poles, wire or apparatus should be damaged, they shall be repaired by the agency by the agency or person owning them and the expense of such repairs shall be charged to the permittee, and his or its bond shall be liable therefor. The permittee shall inform itself as to existence and location of all underground utilities and protect the same against damage. (Ord. of 11-02-70, Sec. 12)

Sec. 29-91. Protection of adjoining property.

The permittee shall at all times and at his or its own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain a license from the owner of such private property for such purpose and if he cannot obtain a license from such owner, the City Engineer may authorize him to enter the private premises solely for the purpose of making the property safe. The permittee shall, at its own expense shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out said work. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this article. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove even temporarily any trees or shrubs which exist in parking strip areas or easements across private property without first having notified and obtained the consent of the property owner, or in the case of public property, the appropriate City Department or City official having control of such property. (Ord. of 11-02-70, Sec. 13)

Sec. 29-92. Sidewalk excavations.

Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge over said excavation on the line of the sidewalk, which bridge shall be at least three (3) feet wide and securely railed on each side so that foot passengers can pass over safely at all times. (Ord. of 11-02-70, Sec. 14)

Sec. 29-93. Protective measures.

The permittee shall erect such fence, railing or barriers about the site of the excavation work as shall prevent danger to persons using the City street or sidewalks, and such protective barriers shall be maintained until the work shall be completed or the danger removed. At twilight, there shall be placed upon such place of excavation and upon any excavated materials or structures or other obstructions to streets suitable and sufficient lights which shall be kept burning throughout the night during the maintenance of such obstructions. It shall be unlawful for anyone to remove or tear down the fence or railing or other protective barriers or any lights provided there for the protection of the public. (Ord. of 11-02-70, Sec. 15)

Sec. 29-94. Attractive nuisance.

It shall be unlawful for the permittee to suffer or permit to remain unguarded at the place of excavation or opening any machinery, equipment or other device having the characteristics of an attractive nuisance likely to attract children and hazardous to their safety and health. (Ord. of 11-02-70, Sec. 16)

Sec. 29-95. Care of excavated material.

All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such a manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow alley, the City Engineer shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites. (Ord. of 11-02-70, Sec. 17)

Sec. 29-96. Damage to existing improvements.

All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials for such repair shall conform to the requirements of any applicable code or ordinance. If upon being ordered, the permittee fails to furnish the necessary labor and materials for such repairs, the City Engineer shall have the authority to cause said necessary labor and materials to be furnished by the City and the cost shall be charged against the permittee. (Ord. of 11-02-70, Sec. 18)

Sec. 29-97. Property lines and easements.

Property lines and limits of easements shall be indicated on the plan of excavation submitted with the application for the excavation permit and it shall be the permittee's responsibility to confine excavation work within these limits. (Ord. of 11-02-70, Sec. 19)

Sec. 29-98. Clean-up.

As the excavation work progresses all streets and private property shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean-up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the City Engineer. From time to time as may be ordered by the City Engineer and in any event immediately after completion of said work, the permittee shall at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from said work and upon failure to do so within twenty—four (24) hours after having been notified to do so by the City Engineer, said work may be done by the City Engineer and the cost thereof charged to the permittee. (Ord. of 11-02-70, Sec. 20)

Sec. 29-99. Protection of watercourses.

The permittee shall provide for the flow of all watercourses, sewers or drains intercepted during the excavation work and shall replace the same in as good condition as it found them or shall make such provisions for them as the City Engineer may direct. The permittee shall not obstruct the gutter of any street, but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provision to take care of all surplus water, muck, silt, slickings or other runoff pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide. (Ord. of 11-02-70, Sec. 21)

Sec. 29-100. Breaking through pavement.

- (a) Whenever it is necessary to break through existing pavement for excavation purposes and where trenches are to be four (4) feet or over in depth, the pavement in the base shall be removed to at least six (6) inches beyond the outer limits of the subgrade that is to be disturbed in order to prevent settlement, and a six (6) inch shoulder of undisturbed material shall be provided in each side of the excavated trench.
- (b) All excavations on paved street surfaces shall be precut in a neat, straight line with pavement breakers or saws. Heavy-duty pavement breakers may be prohibited by the City when their use endangers existing substructures or property, and no pile driver may be used in breaking up the pavement.
- (c) Cutouts of the trench lines must be normal or parallel to the trench line and pavement edges shall be trimmed to a vertical face.
- (d) Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.
- (e) The permittee shall not be required to pay for repair of damage existing prior to the excavation unless his cut results in small floating sections that may be unstable, in which case, the permittee shall remove the unstable portion and the area shall be treated as part of the excavation.
- (f) When three (3) or more street openings are made in sequence (fifteen (15) feet or less, center to center, between each adjacent opening), the permittee shall neatly cut and remove the area of pavement between these adjacent openings and the area shall be patched as one opening. (Ord. of 11-02-70, Sec. 22; Ord. of 11-04-74)

Sec. 29-101. Tunnels.

Tunnels under pavement shall not be permitted except by permission of the City Engineer and if permitted shall be adequately supported by timbering and backfilling under the direction of the City Engineer. (Ord. of 11-02-70, Sec. 23)

Sec. 29-102. Backfilling generally.

Backfilling in any street opened or excavated pursuant to an excavation permit issued hereunder shall be compacted to a degree equivalent to that of the undisturbed ground in which the trench was dug. Compacting shall be done by mechanical tappers or vibrators, by rolling in layers, or by water settling, as required by the soil in question and sound engineering practices generally recognized in the construction industry. The decision as to whether a trench shall be backfilled by water settling shall be based upon such engineering practices and shall be made by the City Engineer. When water is taken from a fire hydrant the permittee shall assign one man to operate the hydrant and shall make certain that said man had been instructed by the city water department in the operation of the hydrant. The city water department shall likewise be notified at both the beginning and end of the job so that the condition of the fire hydrants can be checked on both occasions. Any damage done to the hydrants during the excavation shall be the responsibility of the permittee. Water shall be paid for by the permittee on the terms agreed upon with the city water department. (Ord. of 11-02-70, Sec. 24)

Sec. 29-103. Backfilling by water settling.

When backfilling is done by water settling, excavated materials above utility installations shall be deposited uniformly in layers of not more than five (5) feet in thickness and shall be thoroughly flooded. During the flooding, the water shall be allowed to flow slowly to the trench from high points and shall be worked down to the full depth of the layer of backfill with bars. All bars used shall be long enough to extend entirely through the layer being filled and shall be forced down through the loose backfill material. As the bars are withdrawn, the water shall be allowed to flow downward around the bar. The channel or hole formed by the bar shall be kept open and the water kept running into it until the fill has settled. All work shall be done in such manner as to obtain a relative compaction through the entire depth of the backfill of not less than that existing adjacent to the excavation. (Ord. of 11-02-70, Sec. 25)

Sec. 29-104. Dry backfilling.

Backfilling up to the first eighteen (18) inches above the top of the utility pipes or similar installations shall be done with thin layers. Each layer is to be tamped by manual or mechanical means. Layers that are hand tamped shall not exceed four (4) inches in thickness. Layers that are power tamped shall not exceed six (6) inches in thickness. The same requirements shall apply to the remainder of the backfilling if tamping is the method used for backfilling. Backfilling of all pipes of over twenty-four (24) inches in diameter shall be carried up to the spring line of the pipe in three (3) inch layers, with

each layer moistened and thoroughly tamped with suitable mechanical equipment. The backfill around all pipes twenty-four (24) inches or less in diameter shall be flooded or tamped as specified above to a depth of eighteen (18) inches above the top of the pipe before any additional backfilling is placed thereon. (Ord. of 11-02-70, Sec. 26)

Sec. 29-105. Backfill material.

Whenever any excavation for the laying of pipe is made through rock, the pipe shall be laid six (6) inches above the rock bottom of the trench and the space under, around and six (6) inches above the pipe shall be backfilled with clean river sand, noncorrosive soil or one-quarter (1/4) inch minus gravel. Broken pavement, large stones, and debris shall not be used in the backfill. (Ord. of 11-02-70, Sec. 27)

Sec. 29-106. Backfilling at the surface.

The materials composing the surface of the street shall, when excavated, be kept entirely separate from the remainder of the excavation. With the approval of the City Engineer, such surface material may be used to replace the surface at the top of the trench, or in lieu thereof, the top of said trench must be refilled with a minimum of two (2) feet of heavy bank gravel or equal. All such backfill shall be thoroughly compacted, either manually or mechanically in six (60-inch) layers. No such backfill shall contain stones larger than six (60 inches in their greatest dimensions, nor shall any frozen backfill be used.

The permittee may be required by the Director of Public Works or the City Engineer to place a temporary surface over excavations in paved traffic lanes.

In the event any settlement in said trench occurs between the time said backfilling shall have been made and the time the City shall have made permanent repairs to said excavations, the permittee shall be responsible for any accident or damage to others resulting from the settlement in said trench prior to the making of permanent repairs by the City. (Ord. of 11-02-70, Sec. 28)

Sec. 29-107. Notice to City and restoration of surface.

Upon completion of the backfilling and clean up the permittee shall so notify the City Engineer and request an inspection of the project. After final inspection and the City Engineer shall so notify the Director of Public Works and the City shall then restore the surface of the street as near as may be to its original condition as directed by the City Engineer. If in the judgment of the City Engineer it is not advisable to immediately replace the street pavement because of weather conditions or otherwise he may direct that temporary repairs be made until such time as the permanent repairs may be properly made.

It shall be the duty of the permittee to guarantee and maintain the site of the excavation work in the same condition it was prior to the excavation for two (2) years after restoring it to its original condition. (Ord. of 11-02-70, Sec. 29)

Sec. 29-108. Trenches in pipe laying.

Except by special permission from the City Engineer, no trench shall be excavated more than two hundred (200) feet in advance of pipe laying nor left unfilled more than two hundred (200) feet where pipe has been laid. The length of the trench that may be opened at any one time shall not be greater than the length of pipe and the necessary accessories which are available at the site ready to be put in place. Trenches shall be braced and sheathed according to generally accepted safety standards for construction work as prescribed by the City Engineer. No timber bracking, lagging, sheathing or other lumber shall be left in any trench. (Ord. of 11-02-70, Sec. 30)

Sec. 29-109. Prompt completion of work.

The permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work as soon as practicable and in any event not later than the date specified in the excavation permit therefor, or as subsequently extended by the Director of Public Works. (Ord. of 11-02-70, Sec. 31)

Sec. 29-110. Urgent work.

If in his judgment traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the City Engineer shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee twenty-four (24) hours a day to the end that such excavation work may be completed as soon as possible. (Ord. of 11-02-70, Sec. 32)

Sec. 29-111. Emergency action.

In the event of any emergency in which a sewer, main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer, main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the Director of Public Works Office is open for business., (Ord. of 11-02-70, Sec. 33)

Sec. 29-112. Noise, dust and debris.

Each permittee shall conduct and carry out the excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and during the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the City Engineer or in case of an emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient

volume to disturb the sleep or repose of occupants of the neighboring property. (Ord. of 11-02-70, Sec. 34)

Sec. 29-113. Excavations barred in new street improvements.

- (a) Whenever the City Council enacts any ordinance or resolution providing for the paving or repaving of any street, the Director of Engineering Services shall mail by ordinary mail a notice to each person owning any sewer, main, conduit or other utility in or under said street or any real property, whether improved or unimproved, abutting said street. Such notice shall notify such persons that no excavation permit shall be issued for openings, cuts or excavations in said street for a period of five (5) years after the date of the notice. Such notice shall also notify such persons that applications for excavation permits, for work to be done prior to such paving or repaving, shall be submitted promptly in order that the work covered by the excavation permit may be completed not later than sixty (60) days from the date of such notice. The City Engineer shall also promptly mail copies of such notice to the occupants of all houses, buildings and other structures abutting said street for their information and to State agencies and City departments or other persons that may desire to perform excavation work in said City street.
- (b) Within said sixty (60) days every public utility company receiving notice as prescribed herein shall perform such excavation work, subject to the provisions of this article, as may be necessary to install or repair sewers, mains, conduits or other utility installations. In the event any owner of real property abutting said street shall fail within said sixty (60) days to perform such excavation work as may be required to install or repair utility service lines or service connections to the property lines, any and all right of such owner or his successors in interest to make openings, cuts or excavations in said street shall be forfeited for a period of five (5) years from the date of enactment of said ordinance or resolution. During said five-year period no excavation permit shall be issued to open, cut or excavate in said street unless in the judgment of the Public Works Director an emergency exists which makes it necessary that an excavation permit be issued, or when authorized by an order of the City Council.
- (c) Every City Department or Official charged with responsibility for any work that may necessitate any opening, cut or excavation in said street is directed to take appropriate measures to perform such excavation work within said sixty (60) day period so as to avoid the necessity for making any openings, cuts or excavations in the new pavement in said City street during said five (5) year period.
- (d) No person, firm, or corporation, including the City's Public Works Department, shall make or cause to be made any opening or excavation in a City street, way or public place until contact has been made with all utilities to locate any existing underground gas, water, telephone or other installations with said street, way or public place.
- (e) The developer of new streets offered to the City for acceptance as public streets shall, prior to offering said new streets for acceptance, install all sewers, mains, drains, conduits and other utilities, including utility stubs, to all existing and proposed lots. For a period of five (5) years from the date of final acceptance, no excavations in said street, except as provided in subsection (b) of this section. (Ord. of 11-02-70, Sec.

35; Ord. of 11-06-72; Ord. of 11-04-74; Ord. of 12-29-80; Ord. of 10-31-88, Secs. A,B)

Sec. 29-113.1. Installation and maintenance of lines for gas.

- (a) Upon the installation or renewal of a gas or other flammable service line to any building, a shut-off control valve shall be installed in the service line at or near the property line.
- (b) When gas or other flammable service to buildings is discontinued, the existing service line for such service shall be terminated at a point outside the building at or near the property line.
- (c) Upon the reconstruction of any such street, all gas main lines and building service lines that have been installed for a period of twenty (20) years or more must be replaced. (Ord. of 11-06-72)

Editor's note – Ordinance of November 6, 1972, amended this Code by adding provisions designated as Sec. 20-113A, which section has been redesignated by the editors as 29-113.1 in order to maintain the Code numbering system.

Sec. 29-114. Preservation of monuments.

The permittee shall not disturb any surface monuments or hubs found on the line of excavation work until ordered to so do by the City Engineer. (Ord. of 11-02-70, Sec. 36)

Sec. 29-115. Inspections.

The City Engineer shall make such inspections as are reasonably necessary in the enforcement of this article. The City Engineer shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this article. (Ord. Of 11-02-70, Sec. 37)

Sec. 29-116. Maintain drawings.

Users of subsurface street space shall maintain accurate drawings, plans, and profiles showing the location and character of all underground structures including abandoned installations. Corrected maps shall be filed with the City Engineer within sixty (60) days after new installations, changes or replacements are made. (Ord. of 11-02-70, Sec. 38)

Sec. 29-117. Article not applicable to City and State work.

The provisions of this article shall not be applicable to any excavation work under the direction of competent City authorities, employees of the City or by any contractor of the City or State performing work for and in behalf of the City or State necessitating openings or excavations in streets. (Ord. of 11-02-70, Sec. 39)

Sec. 29-118. Insurance.

A permittee, other than a public utility company prior to the commencement of excavation work hereunder, shall furnish the City satisfactory evidence in writing that the permittee has in force and will maintain in force during the performance of the excavation work and the period of the excavation permit public liability insurance of not less than one hundred thousand dollars (\$100,000.00) for any one person and three hundred thousand dollars (\$300,000.00) for any one accident and property damage insurance of not less than fifty thousand dollars (\$50,000.00) duly issued by an insurance company authorized to do business in this State. (Ord. of 11-02-70, Sec. 40)

Sec. 29-119. Liability of City.

This article shall not be construed as imposing upon the City or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder; nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any excavation work. (Ord. of 11-02-70, Sec. 41)

Sec. 29-120. Improper work completed by the City.

If the work or any part thereof provided for in this article shall be unskillfully or improperly done, the City Engineer or the Director of Public Works may forthwith cause the same to be skillfully and properly done and shall keep an account of the expense thereof. In such case, the permittee in default shall pay to the City all its expenses incurred in correcting such improper work with an additional fifty percent (50%) added thereto for its default; and thereafter no further permits shall issue to the permittee until such sum is paid in full to the City. (Ord. of 11-02-70, Sec. 42)

ARTICLE V. DRIVEWAY INSTALLATIONS AND ALTERATIONS⁶⁰

Sec. 29-121. Compliance with State rules and regulations.

All such driveway installations and alterations shall comply with the “Rules and Regulations Relating to Entrances to Highways” as adopted by the State Department of Transportation under the provisions of Title 23, Section 704, and the issuance of said permit by the Building Inspector shall be subject to the approval of the City Engineer to assure compliance with such rules and regulations. (Ord. of 7-08-74)

Sec. 29-122. Permits – Required.

No person, firm or corporation shall construct, alter or maintain any driveway for entrance or access to any public street or way within the compact or built-up section of the City without first obtaining a written permit from the Building Inspector; or if outside

⁶⁰ **Editor’s note** – Ord. of July 8, 1974, amend this Code by adding Art. V, Secs. 29-121 – 29-125. The provisions were set out as enacted except catchlines were added to facilitate references and indexing and sections were rearranged for purposes of classification.

the compact or built-up section, so-called, and on any State or State aid highway without a permit from the State Department of Transportation, as required by State Law, Title 23, Section 7-04. The City permit fee shall be fixed by the City Council. (Ord. of 7-08-74)

Sec. 29-123. Same – Existing driveways exempt; exceptions.

No permit shall be required for any existing driveway unless the grade or location of the same is changed, but if any such driveway is changed in location or grade or is improved or re-paved, a permit shall be required. If any existing driveway is changed in degree or kind of use, such as from residential to business, a permit shall be required. (Ord. of 7-08-74)

Sec. 29-124. Same – Prerequisite to issuance of building permit.

No building permit shall be issued for the construction or alteration of any building if the construction project includes the installation or alteration of a driveway for access to the property without the prior issuance of a permit for such driveway installation or alteration in accordance with the provisions of this article. (Ord. of 7-08-74)

Sec. 29-125. Same – Revocation.

If after the issuance of a permit for the installation or alteration of a driveway, such driveway is not constructed in accordance with said "Rules and Regulations Relating to Entrances to Highways" or if said driveway becomes hazardous to travel along the public street or way as the result of excessive ice or other conditions caused by improper grading, said permit may be revoked by the Building Inspector upon the recommendation of the City Engineer until the defective conditions are corrected; subject to the property owner's right of appeal to the Municipal Officers who shall conduct a hearing thereon and may modify or affirm the revocation of said driveway permit or order the reissuance of said permit. (Ord. of 7-08-74)

Chapter 30
SUBDIVISIONS⁶¹

- Art. I. In General, Secs. 30-1 – 30-15
- Art. II. Plans, Secs. 30-16 – 30-72
 - Div. 1. Generally, Secs. 30-16 – 30-25
 - Div. 2. preliminary Plan, Secs. 30-26 – 30-40
 - Div. 3. Definitive Plan, Secs. 30-41 – 30-72
- Art. III. Design Standards, Secs. 30-73 – 30-105
 - Div. 1. General, Secs. 30-73 – 30-82
 - Div. 2. Streets, Secs. 30-83 – 30-105
- Art. IV. Improvements, Secs. 30-106 – 30-127

ARTICLE I. IN GENERAL

Sec. 30-1. Title.

This chapter shall be known and may be cited as the “Subdivision Ordinance of the City of Westbrook”, adopted on May 1, 1963, by the Council, and amended through April 6, 1970. (Ord. of 4-06-70, Sec. 2)

Sec. 30-2. Purpose.

It is the purpose of this chapter, drafted as part of a comprehensive plan for the City, to promote the health, safety, convenience and general welfare of the inhabitants of the community by regulating the laying out and the construction of ways in subdivisions, by ensuring sanitary conditions and, in proper cases, adequate open space therein; more specifically, to ensure the provision of adequate access to all of the lots in a subdivision, to lessen congestion, to reduce danger to life and limb in the operation of motor vehicles, to secure adequate provision for water, sewerage, drainage, and other municipal services where necessary and to ensure the orderly development of land and the proper utilization of natural features. (Ord. of 4-06-70)

Sec. 30-3. Authority.

This chapter is enacted under the authority granted to the City by 30 M.R.S.A. Section 4956. (Ord. of 4-06-70, Sec. 1)

Sec. 30-4. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter.

Adjacent way shall mean:

⁶¹ **Cross references** – Buildings, Ch. 6; fire protection and prevention, Ch. 13; housing, Ch. 17; plumbing, Ch. 24; streets and sidewalks, Ch. 29; zoning, Part III.

State law reference – Municipal authority to regulate land subdivision, 30 M.R.S.A. Sec. 4956.

- (a) A way accepted by or established as belonging to the City, provided access is not specifically prohibited;
- (b) A way shown on a plan approved in accordance with the provisions of this chapter; or
- (c) A private way (unaccepted street) existing prior to the enactment of this chapter, which way is shown on a plan recorded in the Registry of Deeds prior to such enactment and is deemed adequate by the Planning Board as evidenced by the Board's endorsement on a definitive plan for subdivision of land. In its approval of an existing private way subsequent to the enactment of this chapter, the Board may make whatever requirements it feels necessary in order to improve such way commensurate with the projected use of the way.

City Engineer shall mean the City Engineer duly appointed by the Mayor or, in the absence of a City Engineer, a qualified engineer selected by the Planning Board with the approval of the Councilor

Lot shall mean an area of land in one (1) ownership, with definite boundaries, used, or available for use, as the site of one (1) or more buildings.

Planning Board shall mean the official Planning Board of the City constituted in conformity to State statutes.

Re-subdivision shall mean the re-platting of all or part of the land included in a subdivision plat already recorded in the Registry of Deeds.

Subdivision shall mean the division of a tract of land as defined in Title 30, Maine Revised Statutes Annotated, Section 4956, as amended. (Ord. of 4-06-70, Sec. 7)

Sec. 30-5. Waiver of regulations.

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the intent of Title 30 of the Maine Revised Statutes Annotated. (Ord. of 4-06-70, Sec. 7)

Sec. 30-6 – 30 – 15. Reserved.

ARTICLE II. PLANS
DIVISION 1. GENERALLY

Sec. 30-16. To be filed.

No person shall subdivide land for any type of land use within the meaning of Title 30 M.R.S.A. within the City or proceed with the improvement or sale of lots in a subdivision, or the construction of ways or streets, or the installation of utilities therein, unless and until the plan of such subdivision has been submitted to and approved by the Planning Board as hereinafter provided. (Ord. of 4-06-70, Sec. 3(B))

Sec. 30-18. Conveyance of land by reference to unrecorded plat.

Any person who conveys or agrees to convey any land by reference to a plat which has not been approved as required, and recorded in the Cumberland Registry of Deeds, shall be subject to the penalty provisions of Section 1-8 of this Code and the other legal remedies set forth in 30 M.R.S.A., Section 4857. (Ord. of 4-06-70, Sec. 3(B))

Sec. 30-19. – 30-25. Reserved.

DIVISION 2. PRELIMINARY PLAN

Sec. 30-26. Subdivider to consult prior to submission.

It is recommended that, before submitting subdivision plans to the Planning Board for preliminary approval, the subdivider consult with the City Engineer, the Portland Water District and the sewerage division of the City regarding their requirements. (Ord. of 4-06-70, Sec. 4(A)(2))

Sec. 30-27. Submission to Planning Board; notice to Clerk.

A preliminary plan of a subdivision shall be submitted to the Planning Board by the subdivider.

In submitting such preliminary plan, the subdivider shall give written notice by delivery or registered mail to the City Clerk stating the date of submission of such plan. (Ord. of 4-06-70, Sec. 4(A)(1))

Sec. 30-28. Purpose of submitting.

The submission of a preliminary plan of a subdivision will enable the subdivider, the Board, other municipal agencies and owners of property abutting the subdivision to discuss and clarify the details of such subdivisions before a definitive plan is prepared. (Ord. of 4-06-70, Sec. 4(A)(1))

Sec. 30-29. To be drawn on tracing paper; contents generally.

The preliminary plan of a subdivision shall be drawn on tracing paper at a suitable scale; three (3) prints shall be filed with the Planning Board.

The plan shall show sufficient information about the subdivision to form a clear basis for discussion of its various aspects and for the preparation of the definitive plan. (Ord. of 4-06-70, Sec. 4(A)(2))

Sec. 30-30. Labeling required.

The preliminary plan of a subdivision shall be clearly labeled "Preliminary Plan". (Ord. of 4-06-70, Sec. 4(A)(2))

Sec. 30-31. To contain specific information.

The preliminary plan of a subdivision shall show the following information:

- (a) Subdivision name, boundaries, north point, date and scale.
- (b) Names of the record owner, subdivider and designer, engineer or surveyor.
- (c) Names of all abutters as they appear in the most recent tax list.
- (d) Existing and proposed lines of streets, ways, easements and any public areas within the subdivision (in a general manner).
- (e) Approximate boundary lines of proposed lots, with approximate areas and dimensions of each.
- (f) Names, approximate locations and widths and adjacent streets.
- (g) Topography of the land (in a general manner).
- (h) Layout of storm drainage, water supply and sanitary sewer systems.
- (i) Location and boundaries of soils areas and their names in accordance with the National Cooperative Soil Survey Classification, together with the location and results of any on-site soils work which has been undertaken. (Ord. of 4-06-70, Sec. 4(A)(2); Ord. of 4-11-79, Sec. 2)

Sec. 30-32. Tentative approval.

When a preliminary plan of a subdivision is submitted, the Planning Board shall give such plan its tentative approval, with or without modification or its disapproval within thirty (3) days from the date of submission. Such tentative approval does not constitute the approval of any definitive plan that may be developed and shall be submitted subsequently. If no definitive plan is submitted within one hundred eighty (180) days of preliminary plan approval, the preliminary plan approval shall be void unless an extension is granted by the Planning Board. (Ord. of 4-06-70, Sec. 4(A)(3); Ord. of 4-11-79, Sec. 3)

Sec. 30-33 – 30-40. Reserved.

DIVISION 3. DEFINITIVE PLAN

Sec. 30-41. Certain items, information to be filed with plan.

Upon submission of a definitive plan of a subdivision to the Planning Board for approval, the subdivider shall file the following with the Board:

- (a) A transparent master copy of all sheets comprising the definitive plan, a reproducible copy and three (3) clearly legible contact prints thereof. The original drawing or master copy, whichever is submitted, will be returned after approval or disapproval. The reproducible copy and contact prints shall become the property of the City.
- (b) A properly executed application including a statement of the time within which the required construction of ways and the installation of municipal services will be completed. The time shall not be greater than two (2) years from the date of approval of the definitive plan unless subsequently extended by the Board in writing.
- (c) A fee of sixty-five dollars (\$65.00) per lot shown on the definitive plan. An agreement to pay the costs for advertising for a public hearing and for the cost of mailing any required notices.
- (d) A certified check in the amount totaling fifty dollars (\$50.00) for each boundary monument shown on the definitive plan and as required by these regulations, which amount shall be refunded after submission of a certificate from a surveyor acceptable to the Planning Board certifying that boundary monuments have been accurately installed.
- (e) A certified check in the amount totaling thirty dollars (\$30.00) per lot but not exceeding three hundred dollars (\$300.00) as security for the later submission to the Board of an accurate record plan and profile (original ink drawings on linen or transparent copies on linen of drainage lines and structures, water mains and appurtenances) as actually installed with sufficient ties for proper identification. Upon acceptance by the Board of the required plans, the amount deposited shall be refunded. (Ord. of 4-06-70, Sec. 4(B)(1); Ord. of 7-24-78; Ord. of 3-03-86; Ord. of 1-22-91)

Sec. 30-42. Installation of utilities, construction of ways to meet certain requirements.

The installation of utilities and the construction of ways specified on the definitive plan of a subdivision must conform to the requirements of the City Engineer, the Portland Water District and the sewerage division of the City. Therefore, it is respectfully recommended that the subdivider consult with the aforementioned prior to drafting the final plans for submission. (Ord. of 4-06-70, Sec. 4(B)(1))

Sec. 30-43. Applicant to notify Clerk of submission.

An applicant for approval of a subdivision shall file by delivery or registered mail a notice with the City Clerk stating the date of submission of his definitive plan for

approval, accompanied by a copy of the completed application. (Ord. of 4-06-70, Sec. 4(B)(1))

Sec. 30-44. Preparation; engineer to design, supervise construction of public works facilities.

The definitive plan of a subdivision shall be prepared by an engineer or land surveyor. If such plan requires design of public works facilities such as streets, storm drainage systems, sanitary systems and so forth, the design and supervision of construction shall be performed by a registered professional engineer of the State. (Ord. of 4-06-70, Sec. 4(B)(2))

Sec. 30-45. To be submitted on cloth; scale; sheet size.

A definitive plan of a subdivision shall be submitted, clearly and legibly drawn in black India ink on tracing cloth or reproducible mylar.

The plan shall be at a scale of one (1) inch equals forty (40) feet or such other scale as the Planning Board may accept in order to show details clearly and adequately.

Sheet sizes shall preferably not exceed twenty-four (24) inches by thirty-six (36) inches. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. (Ord. of 4-06-70, Sec. 4(B)(2); Ord. of 4-11-79, Sec. 4)

Sec. 30-46. To contain specific information.

A definitive plan of a subdivision shall contain the following information:

- (a) Subdivision name, boundaries, north points, date, scale, zone of subdivision and abutting land and locus map showing assessors map and lot number.
- (b) Name and address of record owner, subdivider and engineer or surveyor.
- (c) Names of all abutters as they appear in the most recent tax list.
- (d) Lines of existing and proposed streets, ways, lots, easements (including purposes for which such are established) and public or common areas within the subdivision. The proposed names of streets shall be shown in pencil until approved by the Planning Board.
- (e) Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground. Boundary surveys shall be tied to the Maine Coordinate System.
- (f) Location, names and present widths of streets bounding, approaching or within reasonable proximity to the subdivision.
- (g) Suitable space to record the action of the Planning Board and the signatures of the members of the Board (or such persons as are officially authorized).
- (h) Suitable space to record the action of the Planning Board and the signatures of the members of the Board (or such persons as are officially authorized).
- (i) Existing and proposed topography at a suitable contour interval and area with poor drainage, as required by the Planning Board.
- (j) Either on the same sheet as the plan of the new way or ways or on a separate sheet, the existing profile on the center line and on both exterior lines and the proposed

profile on the center line of the new way at a horizontal scale of one (1) inch equals forty (40) feet and a vertical scale of one (1) inch equals four (4) feet, or such other scale which is acceptable to the Planning Board. All elevations shall refer to mean sea level.

- (k) Proposed layout of storm drainage, water supply, fire hydrants and sanitary sewer systems (in accordance with specifications of the sewerage division of the City and the Portland Water District).
- (l) Benchmarks and ties to the Maine Coordinate System shall be furnished by the Office of the City Engineer to the developer's engineer to within one thousand (1,000) feet of the proposed subdivision. (Ord. of 4-06-70, Sec. 4(B)(2))

Sec. 30-47. Performance guarantee required prior to approval.

Before the approval of a definitive plan of a subdivision, the subdivider shall agree to complete the required improvements specific in Article IV of this chapter. The Planning Board shall require that completion of such construction be secured by the following procedure:

The subdivider shall either file a performance bond with corporate surety duly authorized to write surety bonds and regularly engaged in such business or deposit money or negotiable securities in an amount determined by the Board to be sufficient to cover the cost of all or any part of the improvements specified in Article IV of this chapter. The amount of the bond or deposit shall be based upon cost estimates or required work approved by the City Engineer. The bond or security shall not be released by the Board until it has established that the work required has been completed in accordance with the approve plans and has been inspected and found satisfactory according to the standards hereinafter established. The amount of the security or the penal sum of any such bond may, from time to time, be reduced by the Board, and the obligations of the parties thereto released in whole or in part by the Board, provided that nay reduction or release shall be commensurate with the portion of the work completed. Bond is required before any work can be started and before any lot can be sold. (Ord. of 4-06-70, Sec. 4(B)(3))

Sec. 30-48. Engineer's report required prior to approval.

Before a subdivision may be approved by the Planning Board, the City Engineer shall submit a report to the Board with respect to the grades, feasibility of drainage and sewerage and the character of road surfacing. (Ord. of 4-06-70, Sec. 4(B)(4))

Sec. 30-49. Engineer to notify Board if building site is subject to flooding, inadequate sewage disposal; building restricted.

If the City Engineer questions whether any part of the land in the subdivision can be used as a building site without endangering the health and welfare of the occupants because of conditions of flooding or inadequate sewage disposal or water supply, he shall so notify the Planning Board in writing. Any approval of the plan by the Board shall then be given only on condition that the lots or land as to which such question exists shall not be built

upon without prior consent of the engineer; such condition shall be recorded on the plan specifying the lots or land to which it applies. (Ord. of 4-06-70, Sec. 4(B)(4))

Sec. 30-50. Sewerage system required.

Any lot in a subdivision so located that it cannot be served by a connection to a public sewer system shall be provided with an approved private sewage disposal system as defined in the Maine State Plumbing Code, as amended, and in conformance with the zoning ordinance of the City, being particularly Part III of this Code, Section VII, (C). The specifications of such system shall be satisfactory to the Planning Board and to the City Engineer. The Board may request a report from the Health Department or Officer and Plumbing Inspector of the City before granting approval to a plan including said lot. (Ord. of 4-06-70, Sec. 4(B)(4))

Sec. 30-51. Water source required.

Any lot in a subdivision so located that it cannot be served by a connection to a public water system shall be provided with a source of water satisfactory to the Planning Board. Before granting approval to a plan including such lot, the Board shall establish whatever requirements are necessary in order to ensure a suitable water supply. The Board may request a report from the Health Department or Officer in regard to the suitability of such water supply. (Ord. of 4-06-70, Sec. 4(B)(4))

Sec. 30-52. Public hearing; notice.

Upon receipt of a completed definitive plan, the Planning Board may hold a public hearing. Notice of said public hearing shall be published twice in a paper of general circulation in the City, the first such notice to be published at least seven (7) days prior to the hearing. Notice shall also be mailed by regular mail to the owners of land within five hundred (500) feet of any portion of the land included in such plan. (Ord. of 4-06-70, Sec. 4(B)(5); Ord. of 4-11-79, Sec. 5)

Sec. 30-53. Setbacks.

All lots in a subdivision shall be of such size and dimensions and have setbacks from adjacent ways to meet or exceed the minimum requirements of the zoning ordinance. (Ord. of 4-06-70, Sec. 3(A), 4(B)(6))

Sec. 30-54. Acceptance standards; approval or disapproval.

Before approving any definitive plan the Planning Board shall consider the following criteria to determine that the proposed subdivision:

- (a) Will not result in undue water or air pollution. In making this determination it shall at least consider: The elevation of land above sea level and its relation to the floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of

streams for disposal of effluents; and the applicable State and local health and water resources regulations;

- (b) Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- (c) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- (d) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- (e) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- (f) Will provide for adequate sewage waste disposal;
- (g) Will not cause an unreasonable burden on the ability of the City to dispose of solid waste and sewage if municipal services are to be utilized;
- (h) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;
- (i) Is in conformance with the subdivision ordinance, comprehensive plan, and all other City Ordinances and Regulations;
- (j) Whenever situated in whole or in part, within two hundred fifty (250) feet of any pond, lake or river, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
- (k) The action of the Planning Board in respect to the definitive plan shall be by vote, copies of which shall be certified and filed with the City Clerk and sent by mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its actions. Approval, if granted, shall be endorsed on the plan finally accepted by the signatures of a majority of the Board or by the signatures of the persons officially authorized by the Board. (Ord. of 4-06-70, Sec. 4(B)(7); Ord. of 4-11-79, Sec. 6)

Sec. 30-55. Board to act within time limits.

Within thirty (30) days of the public hearing or within sixty (60) days of the receipt of the completed definitive plan, if no public hearing is held, or within such other time limit as may be otherwise mutually agreed to by the Board and the applicant, the Planning Board shall issue an order denying, approving, or approving with conditions the plan for the subdivision. (Ord. of 4-06-70(B)(7); Ord. of 4-11-79, Sec. 7)

Sec. 30-56. Certificate of approval to be recorded; form.

The certificate of approval of any subdivision shall be recorded with the definitive plan as provided in Section 30-60. The form provided by the City shall be used unless another form is approved by the Planning Board. (Ord. of 4-06-70, Sec. 4(B)(7))

Sec. 30-57. Compliance with federal, state and municipal regulations constitutes basis for approval.

The approval of a subdivision shall be based on its compliance with state and federal laws and regulations, municipal ordinances, including this chapter, and with the general

intents and purposes of this chapter, and with the general intents and purposes of this chapter. (Ord. of 4-06-70, Sec. 4(B)(7); Ord. of 4-11-79, Sec. 8)

Sec. 30-58. Appeal procedure.

An appeal may be taken from the approval or disapproval of a subdivision by the applicant and/or any party adversely affected thereby pursuant to Rule 80B, Maine Rules of Civil Procedure, as amended. (Ord. of 4-06-70, Sec. 4(B)(7))

Sec. 30-59. Approval of plan not to constitute street acceptance.

Final approval of the definitive plan does not constitute the laying out or acceptance by the City of streets within the subdivision. (Ord. of 4-06-70, Sec. 4(B)(7))

Sec. 30-60. Recording.

A subdivision applicant shall have his definitive plan as approved recorded in the Cumberland County Registry of Deeds within thirty (3) days after such approval. No subdivision plan shall be recorded prior to such approval. The certificate of approval and any covenants attached shall be recorded with the plan. (Ord. of 4-06-70, Sec. 4(B)(8))

Sec. 30-61. Record plan and profile to be filed with Board showing construction.

An accurate record plan and profile shall be submitted to the Planning Board after completion of the construction, showing drainage lines and structures, watermains and appurtenances, as actually installed with sufficient ties for proper identification within one (1) year after completion. (Ord. of 4-06-70, Sec. 4(B)(9))

Sec. 30-62. Changes, alterations.

No changes or alterations shall be made in an approved definitive plan without submitting the changes for approval to the Planning Board. Any alteration in grades, drainage plans, or other utilities shall be deemed to constitute a change in the definitive plan. Approved changes shall be endorsed on the definitive plan by the Planning Board, and the plan as modified shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after such approval. (Ord. of 4-06-70, Sec. 7(B))

Sec. 30-63. Project inspection fee.

Prior to commencing any site work, road construction or utility work in any approved subdivision, the applicant shall pay a project inspection fee to the City Engineer. Failure to pay the required fee prior to the start of construction shall constitute a violation of the Planning Board approval and shall void the approval of the subdivision plan. The project inspection fee shall be one hundred dollars (\$100.00) plus two (2) percent of the total estimated cost of the following improvements as determined by the City Engineer.

(1) All site work, including grading, filling and clearing;

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- (2) All utility work within the proposed street right-of-way or off the site;
- (3) All construction of roads within the proposed street right-of-way;
- (4) All drainage improvements;
- (5) All erosion and sedimentation control measures;
- (6) Any common facilities, including recreation improvements, storage areas or other improvements designated on the approved plan;
- (7) Any other activity required as a condition of approval.

This fee shall be paid in cash or by certified or cashier's check. The project inspection fee shall be nonrefundable and shall be used to defray the City's costs in assuring that the subdivision is built in accordance with the approved subdivision plan. (Ord. of 11-07-88, Sec. B)

Secs. 30-64 – 30-72. Reserved.

ARTICLE III. DESIGN STANDARDS

DIVISION 1. GENERALLY

Sec. 30-73. Preservation of natural features required.

Due regard shall be shown for the preservation of all natural features, such as large trees, watercourses, bodies of water, scenic points, historic spots, unusual topographical features and similar community assets, which, if preserved, will add attractiveness and value to the subdivision. (Ord. of 4-06-70, Sec. 5(D))

Sec. 30-74. Board may require dedication of land for municipal park purposes; specifications for park land.

- (a) Prior to the approval of a subdivision plan, the Planning Board may require a subdivider to set aside an area in the subdivision as park land and to offer to dedicate this land to the City for municipal park purposes.
- (b) In reviewing a subdivision plan, the Planning Board shall seek the advice of the recreation-conservation commission on the need for park land in the area of the subdivision. If the Planning Board finds that the existing public recreational facilities or development, the Planning Board shall require that an area be set aside for park land.
- (c) The area to be set aside for park land shall be shown on the definitive plan and marked "Reserved for Recreation and/or Conservation Purposes".
- (d) The subdivider shall offer to dedicate all such park land to the City of Westbrook as a condition of definitive plan approval. This offer shall be accepted by the City Council within thirty (30) days of approval of the definitive plan. If the Council does not vote to accept the land within this period. The subdivider shall be freed from this obligation and may submit a revised definitive plan to the Planning Board.
- (e) The Planning Board shall be guided by the following in determining the size and location of the park land, if existing public or planned private facilities are found to be inadequate.
 - (1) Two thousand (2,000) square feet of land shall be set aside for park purposes for each dwelling unit in the subdivision.
 - (2) The site shall have access from a public street and shall be of such size, shape, and topography as to be usable for park or recreation purposes.
 - (3) Parcels which can be combined with existing City-owned property or with possible future land dedications shall be given priority.
 - (4) The recommendations of the recreation-conservation commission.
- (f) The land designated as park land on the definitive plan shall be turned over the City in a usable condition, and shall be maintained prior to dedication in a natural state to the maximum extent possible. All clearing, grading, and material placement or removal prior to dedication shall be approved by the City Engineer. (Ord. of 4-06-70, Sec. 5(C); Ord. of 4-11-79, Sec. 10)

Sec. 30-75. Utility easements; width.

Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least twenty (20) feet wide. (Ord. of 4-06-70, Sec. 5(B)(1))

Sec. 30-76. Storm water easement; drainage right-of-way.

Where a subdivision is traversed by a watercourse, drainageway, channel or stream, the Planning Board may require that there be provided a storm water easement or drainage right-of-way of adequate width to conform substantially to the lines of such a watercourse, drainageway, channel or stream. (Ord. of 4-06-70, Sec. 5(B)(2))

Sec. 30-77. Storm water drainage.

- (a) The storm water drainage system shall be designed to minimize the volume and maximum rate of outflow of storm water from the development.
- (b) If the outflow volume or rate is greater than that for the undeveloped site, the developer shall demonstrate that downstream channel or system capacity is sufficient to carry the flow without adverse effects, or shall be responsible for the improvements to provide the required increase in capacity.
- (c) Design of drainage facilities shall be based, at a minimum, on a ten-year, two-hour storm frequency, or such other standard as may be required by the City Engineer.
- (d) Provisions for drainage off the site shall conform to Chapter 5, Article III of this Code of Ordinances. (Ord. of 4-11-79, Sec. 11)

Secs. 30-78 – 30-82. Reserved.

DIVISION 2. STREETS

Sec. 30-83. Safety, attractiveness to be considered.

All streets in the subdivision shall be designed so that they will provide safe vehicular travel. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision. (Ord. of 4-06-70, Sec. 5(A)(1)(a))

Sec. 30-84. Proposed streets to conform to master or study plan as adopted.

Proposed streets shall conform to the master or study plan as adopted in whole or in part by the Planning Board. (Ord. of 4-06-70, Sec. 5(A)(1)(b))

Sec. 30-85. Projection, access to adjoining property to meet Board's approval.

Provisions satisfactory to the Planning Board shall be made for the proper projection of streets, or for access to adjoining property which is not yet subdivided. (Ord. of 4-06-70, Sec. 5(A)(1)(c))

Sec. 30-86. Reserve strips permitted when public interest is served.

Reserve strips prohibiting access to new ways established under this chapter from adjoining property in the same or different ownership shall not be permitted, except where such strips shall be determined to be in the public interest. (Ord. of 4-06-70, Sec. 5(A)(1)(d))

Sec. 30-87. Center line offsets of jogs.

Street jogs at intersections with center line offsets of less than one hundred and twenty-five (125) feet shall be avoided. (Ord. of 4-06-70, Sec. 5(A)(1)(e))

Sec. 30-88. Center line radii.

The minimum centerline radius of curved streets shall be one hundred and twenty-five (125) feet. Greater radii may be required for principal streets. (Ord. of 4-06-70, Sec. 5(A)(1)(f))

Sec. 30-89. Intersecting angles.

Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty (60) degrees. (Ord. of 4-06-70, Sec. 5(A)(1)(g))

Sec. 30-90. Property line radii.

Property lines at street intersections shall be rounded or cut back to provide for a property line radius of not less than twenty (20) feet. Greater radii may be required by the Planning Board where deemed necessary for present and future vehicular travel. (Ord. of 4-06-70, Sec. 5(A)(1)(h))

Sec. 30-91. Width of right-of-way.

The minimum width of rights-of-way of streets shall be fifty (50) feet. (Ord. of 4-06-70, Sec. 5(A)(2))

Sec. 30-92. Street standards.

- (a) All streets constructed as part of a subdivision shall be classified as:
 - (1) *Rural local street* if the average lot frontage on the street is one hundred fifty (150) feet or more, and it serves primarily as access to abutting residential properties; or

- (2) *Suburban local street* if the average lot frontage is between one hundred (100) feet and one hundred fifty (150) feet, and it serves primarily as access to abutting residential properties; or
 - (3) *Urban local street* if the average lot frontage is less than one hundred (100) feet and it serves primarily as access to abutting residential properties; or
 - (4) *Collector street* if it serves to conduct traffic between a residential area or activity center and an arterial street as well as provide access to abutting properties.
- (b) The minimum pavement width for class of road shall be:
- (1) Twenty-six (26) feet for rural and suburban local streets;
 - (2) Thirty-six (36) feet for urban local and collector streets.
- (c) The Planning Board may modify these requirements if it finds that a wider or narrower pavement is desirable due to traffic flow, safety, or the physical features of the site. (Ord. of 4-11-79, Sec. 12)

Sec. 30-93. Grades.

Grades of streets shall not be less than one-half (1/2) percent nor more than six (6) percent except where the Planning Board determines a greater grade is required due to unusual topographic conditions, in which case grades up to twelve (12) percent may be permitted. (Ord. of 4-06-70, Sec. 5(A)(4))

Sec. 30-94. Dead ends.

The use of dead end streets in any subdivision shall be kept to an absolute minimum and they shall conform to the following provisions:

- (a) The maximum length shall be one thousand (1,000) feet.
- (b) Dead end streets shall be provided with a suitable turnaround at the closed end. Turning circles, tee turnarounds, hammerhead turnarounds or other methods approved by the Board shall be acceptable. The turnaround shall be constructed to standards approved by the Planning Board on recommendation from the City Engineer. (Ord. of 4-06-70, Sec. 5(A)(5); Ord. of 4-11-79, Sec. 13)

Sec. 30-95. Names to be approved by Planning Board.

Street names shall be subject to the approval of the Planning Board. (Ord. of 4-06-70, Sec. 5(A)(6))

Secs. 30-96 – 30-105. Reserved.

ARTICLE IV. IMPROVEMENTS

Sec. 30-106. Minimum specifications; alternates.

The Maine State Highway Commission specifications, revision of June 1965, as modified by the Office of the City Engineer or herein, shall be used as minimum specifications for required improvements in approved subdivisions. Alternates using equivalent or better

specifications may be submitted for approval to the Planning Board. (Ord. of 4-06-70, Sec. 6)

Sec. 30-107. Rights-of-way to be cleared.

The area of each right-of-way of a street shall be first cleared of all stumps, roots, brush and perishable materials, except trees, shrubs and so forth intended for preservation. (Ord. of 4-06-70, Sec. 6(A)(1))

Sec. 30-108. Removal of loam, etc., from streets, sidewalks.

All loam, loamy material and clay shall be removed from the full length and width of the street, inclusive of sidewalks, to such depths as may reasonably be required by the City Engineer. (Ord. of 4-06-70, Sec. 6(A)(2))

Sec. 30-109. Streets to be at finished grade; gravel width; crown height.

All streets shall be brought to a finished grade as shown on the profiles of the definitive plan with gravel as specified below at a width of thirty-six (36) feet, or to such width as is approved by the Planning Board. Crown shall be a minimum of one-fourth (1/4) inch per foot. (Ord. of 4-06-70, Sec. 6(A)(3))

Sec. 30-110. Subgrade.

- (a) The entire area of the street shall be graded to a subgrade of not less than twelve (12) inches below the finished grade as shown on the plan, profile, and cross-section hereinbefore mentioned.
- (b) Any fill in subgrade shall be of a subsoil of good bearing characteristics, free from loam, vegetation, decayed matter, peat or other compressible material. Large rocks and boulders shall not be used where the diameter of the boulder is greater than one-half (1/2) of depth of the fill nor shall boulders be used near the surface of the subgrade. Fill in subgrade to be placed in layers of twelve (12) inch thickness wherever practicable; each layer shall be well compacted. (Ord. of 4-06-70, Sec. 6(A)(4))

Sec. 30-111. Base course; grading of gravel.

The base course of streets shall be a minimum of eighteen (18) inches compacted thickness of gravel borrow consisting of hard, durable stone and coarse sand practically free from loam and clay, uniformly graded and containing no stone having any dimension greater than two and one-half (2 ½) inches. Grading of gravel shall conform to the requirements of the City Engineer. (Ord. of 4-06-70, Sec. 6(A)(5); Ord. of 4-11-79, Sec. 14)

Sec. 30-112. Pavement surface; material, construction, use.

The pavement surface of a street shall consist of a minimum of two (2) inches of hot bituminous pavement, grading "C" per State specifications. No bituminous paving shall be done during rainy weather or when weather conditions as to temperature or otherwise are, in the opinion of the City Engineer, unfavorable for obtaining satisfactory results. The wearing surface shall be allowed to seal for twenty-four (24) hours without traffic. (Ord. of 4-06-70, Sec. 6(A)(6))

Sec. 30-113. Disposal of surface water required.

Adequate disposal of surface water from streets shall be provided. Catch basins shall be built in conformity with specifications of the City Engineer. Drain lines shall be installed to conduct surface water to stream courses or other drainage outlets permanently secured by proper legal documents. The use of open drainage ditches shall be permitted for rural local streets. (Ord. of 4-06-70, Sec. 6(A)(6); Ord. of 4-11-79, Sec. 15)

Sec. 30-114. Sidewalks.

Sidewalks shall be required on both sides of urban local streets and collector streets. A sidewalk on one side shall be required for suburban local streets. No sidewalks shall be required on rural local streets unless the Planning Board determines they are necessary for pedestrian safety.

Sidewalks shall be of not less than five (5) feet in width. In general, the finished grade shall be at least six (6) inches above the adjacent roadway. The entire area of the sidewalk shall be graded to a subgrade of not less than ten (10) inches below the finished grade and shall be graded with at least eight (8) inches of gravel thoroughly compacted. The wearing surface shall be of suitable material approved by the City Engineer and the Public Works Department. (Ord. of 4-06-70, Sec. 6(B); Ord. of 4-11-79, Sec. 16)

Sec. 30-115. Curbing.

- (a) Curbing shall be required on both sides of urban local streets and collector streets. Curbing may be required on one or both sides of suburban local streets as recommended by the City Engineer. Curbing shall not be required on rural local streets except as necessary to control storm water or prevent erosion.
- (b) Bituminous concrete or granite curb shall be provided where required. Granite curbing may be required, where in the judgment of the Planning Board and City Engineer, such curbs are necessary to prevent damage or control erosion. A Cape Cod berm may be used as curbing subject to the approval of the City Engineer. Paving and base construction shall be extended the full width under bituminous concrete curbing. (Ord. of 4-06-70, Sec. 6(C)(1,2); Ord. of 4-11-79, Sec. 17)

Sec. 30-116. Planting spaces.

Planting spaces or esplanades of at least three (3) feet in width may be provided on both sides of the roadway except where the judgment of the Planning Board projected use does not require such planting spaces. They shall be graded with at least eight (8) inches of

compacted loam. Seedling with lawn grass shall be done after building construction has been completed on the particular lots adjacent. (Ord. of 4-06-70, Sec. 6(D))

Sec. 30-117. Utilities.

- (a) Where public water service is available, water pipes and relate equipment, such as hydrants and main shut-off valves, shall be constructed to serve all lots on each street in the subdivision in conformity with the specifications of the Portland Water District and the City. A water main of at least eight (8) inches in diameter shall be installed in the street. A water main of less than eight (8) inches in diameter may be approved as provided in the ordinance entitled “Laying Out and Acceptance of Streets and Ways as Public Streets”. Water service lines shall be extended from the main to each property line before the street is surfaced. Shut-off valves to each lot shall be located in the planting spaces within the right-of-way. All utility trenches shall be filled with bank gravel, carefully compacted. Such pipes and related equipment shall either be installed by the Portland Water District or be of specifications approved by such district.
- (b) Where public mains are available, sanitary sewer lines and related equipment, such as manholes and connecting Y’s shall be constructed to serve all lots on each street in the subdivision in conformity with the specifications of the sewerage division of the City or to specifications approved by such division and the lines shall be TV inspected for defects.
- (c) In cases where one or more lots in a subdivision are so located that they cannot be served by a connection to the municipal sewer system or municipal water system or both, the aforementioned requirements may be waived by the Planning Board and the provisions of Sections 30-48 through 30-51, of this chapter shall apply. (Ord. of 4-06-70, Sec. 6(E)(1-3); Ord. of 5-16-83)

Sec. 30-118. Monuments.

Granite or reinforced concrete monuments in accordance with the specifications of the ordinance entitled “Laying Out and Acceptance of Streets and Ways as Public Streets” shall be installed at least on one (1) side of the right-of-way, at all street intersections, at all points of change in direction or curvature of streets and at other points where, in the judgment of the Planning Board, permanent monuments are necessary. Such monuments shall be set to conform to the specifications of the Public Works Department. No permanent monuments shall be installed until all construction, which would destroy or disturb the monument is completed. (Ord. of 4-06-70, Sec. 6(F))

Sec. 30-119. Trees.

Every effort shall be made to preserve the existing trees in the rights-of-way and on the lots to be sold. Filling shall be done in such manner as to preserve the trees wherever possible. (Ord. of 4-06-70, Sec. 6(G))

Sec. 30-120. Subdivider to clean up.

Upon completion of all work on the ground, the subdivider shall remove from the streets and adjoining property all temporary structures and all surplus material and rubbish which may have accumulated during construction, and shall leave the area in a neat orderly condition. (Ord. of 4-06-70, Sec. 6(H))

Sec. 30-121. Costs to be assumed by developer.

The cost of all improvements required by this article shall be the sole responsibility of the developer. (Ord. of 4-06-70, Sec. 6(I)(1); Ord. of 4-11-79, Sec. 18)

Sec. 30-122 – 30-126. Reserved.

Editor's note – Section 19 of an Ord. of April 11, 1979, repealed former sections 21-122 – 21-126 which derived from an ordinance of April 6, 1970, and pertained to costs shared by the developer and the City.

Sec. 20-127. Conditional and final acceptance.

- (a) Upon completion of a schedule of work on streets, as approved by the Planning Board, the developer shall make written request for conditional acceptance of such streets to the Office of the City Engineer. Included in this request shall be cost figures, quantities, and receipts, together with a TV report of all the sanitary and storm drain sewer lines showing no defective installations for review and substantiation by the Engineer.
- (b) Upon receipt of the above information, the Engineer shall prepare a written report including recommendations to the Office of the Mayor. Also, the report will present a review of the Engineer's field inspection stating the physical condition of the facility and a statement on whether to recommend to the Council the conditional acceptance for a period of one (1) year, beginning with receipt of developer's request for conditional acceptance.
- (c) Final acceptance shall be made by the Council one (1) year after the receipt of the developer's letter of request for acceptance, provided the facility continues to meet all City requirements on a subsequent inspection by the Engineer during the one-year period between conditional acceptance and final acceptance.
- (d) The performance bond of the developer shall be in full force until final acceptance is passed by the Council.
- (e) If a negative report is issued by the City Engineer and upheld by the Council, the developer shall re-file a request for conditional acceptance upon meeting the conditions of the City Engineer's report. (Ord. of 4-06-70, Sec. 6(J)(1-6); Ord. of 4-11-79, Sec. 20; Ord. of 5-16-83)

Chapter 31
TRAFFIC⁶²

- Art. I. In General, Secs. 31-1 – 31-24
- Art. II. Operation, Secs. 31-25 – 31-84
- Art. III. Stopping, Standing and Parking, Secs. 31-85 – 31-123
- Art. IV. Pedestrians, Secs. 31-124 – 31-139
- Art. V. Vehicle Towing, Secs. 31-140 – 31-153⁶³

Article I. In General

Sec. 31-1. How chapter cited.

This chapter may be known and cited as the “Traffic Ordinance”. (Ord. of 7-13-65, Sec. 17-4)

Sec. 31-2. Definitions.

The following words and phrases when used in this chapter shall for the purpose of this chapter have the meanings respectively ascribed to them in this article.

Alley or alleyways. A narrow way between buildings generally giving access to the rear of buildings.

Authorized emergency vehicle. Vehicles of the Fire Department, Police Department and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Chief of Police.

Bicycle. Every device propelled by human power upon which any person may ride, having two (2) tandem wheels either of which is more than twenty (20) inches in diameter.

Business or residence district. Business or residence shall mean the territory of any municipality contiguous to any way, which is built up with structures which are less than one hundred fifty (150) feet apart for a distance of at least one quarter (1/4) of a mile.

Commercial vehicle. Every vehicle designed, maintained or used primarily for the transportation of property.

Controlled-access highway. Every highway, street or roadway in respect to which owner or occupants of abutting lands, and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

Crosswalk. (a) That part of a roadway at an intersection included within the connections of the highway measured from the curbs, or in absence of curbs, from the edge of the traversable roadway. (b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

⁶² **Cross references** – all-terrain vehicles, Ch. 3; bicycles, Ch. 5; vehicles for hire, Ch. 33.
State law reference – Municipal authority to regulate vehicles, 30 M.R.S.A. Sec. 2151(3).

⁶³ **Editor’s note** – Article V adopted by order of 2-02-93 as Article II Secs. 31-15 – 31-28; renumbered herein as Secs. 31-140 – 31-153.

Curb loading zone. A space adjacent to the curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Driver. Every person who drives or is in actual physical control of a vehicle.

Highway or roadway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Holidays. Public holidays, as used in this chapter, are those provided by 4 M.R.S.A. Sec. 1051.

Individual parking space. A portion of the paved surface of the street of sufficient length and depth from the sidewalk curb to street of sufficient length and depth from the sidewalk curb to accommodate a vehicle to be parked as shall be specified and marked off by the Chief of Police.

Intersection. The area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of the two (2) highways which join one another, or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

Motor vehicle. Every vehicle which is self-propelled, including motorcycles.

Official time standard. Whenever certain hours are named herein they shall mean standard time or daylight-saving time as may be in current use in the City.

Official traffic-control devices. All signs, signals, markings and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

Park or parking. The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading of merchandise or passengers.

Pedestrian. Any person afoot.

Person. Every officer of the municipal Police Department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private roads or driveway. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not to other persons.

Publicly owned property. Every parcel of land owned or controlled by any of the departments of the City or any quasi-municipal department.

Railroad. A carrier of persons or property upon cars operated on stationary rails.

Railroad train. A steam engine, electric or other motor, with or without car coupled thereto, operated upon rails.

Right-of-way. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

Safety zone. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Sidewalk. The portion of a street between the curb lines, on the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

Stand or standing. The halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

Stop. When required means complete cessation from movement.

Stop or stopping. When prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic-control sign or signal.

Through highway. Every highway or portion thereof on which vehicular traffic from intersecting highways is required by law to yield right-of-way to vehicles on such through highway in obedience to either a stop sign or a yield sign when such signs are erected as provided in this chapter.

Traffic. Pedestrians, ridden or herded animals, vehicles, and other conveyances, either singly or together, while using the highway for purpose of travel

Traffic-control signal. Any device, whether manually, electrically or mechanically operated, by which is alternately directed to stop and permitted to proceed.

Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks. (Ord. of 7-13-65, Secs 1-1 – 1-4, 1-7 – 1-25, 1-27 – 1-36)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 1.

Sec. 31-3. General penalty.

Whenever in this chapter any act is prohibited or is made or declared to be unlawful or a misdemeanor, or whenever in this chapter the doing of an act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of such provision of this chapter shall be punished by a fine of not more than one hundred dollars (\$100.00) plus costs. All fines shall be recovered on complaint to the use of the city. Each day any violation of any provision of this chapter shall continue shall constitute a separate offense.

Sec. 31-4. Obedience to chapter required.

It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter. (Ord. of 7-13-65, Sec. 3-2)

Sec. 31-5. Obedience to police, fire officials required.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or Fire Department official. (Ord. of 7-13-65, Sec. 3-3)

Sec. 31-6. Obedience to regulations by public employees.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States Government, this State, County or City, and it shall be unlawful for any such driver to violate any provisions of this chapter, except as otherwise permitted in this chapter or by State Statute. (Ord. of 7-13-65, Sec. 3-6)

Sec. 31-7. Department to maintain records.

The Police Department shall keep a record of all violations of the traffic ordinances of the City or of the State Vehicle Laws of which any person has been charged, together with a record of the final disposition of all such illegal offenses. Such record shall be so maintained as to show all types of violations and the total of each. Such record shall accumulate during at least a five (5) year period and from that time on the record shall be maintained complete for at least the most recent five (5) year period. (Ord. of 7-13-65, Sec. 2-3)

Sec. 31-8. Authority of Police, Fire Officials to enforce and require obedience to regulations.

- (a) It shall be the duty of the Officers of the Police Department or such officers as are assigned by the Chief of Police to enforce all the traffic laws of the City and all of the State laws applicable to traffic in the City.
- (b) Officers of the Police Department or such officers as are assigned by the Chief of Police are hereby authorized to direct all traffic by voice, hand or signal in conformance with the traffic laws provided that, in the event of a fire or other emergency, or to expedite traffic or to safeguard pedestrians, Officers of the Police Department may direct traffic as conditions may require, notwithstanding the provisions of the traffic laws.
- (c) Officers of the Fire Department, when at the scene of a fire, may direct or assist the Police in directing traffic thereat or in the immediate vicinity. (Ord. of 7-13-65, Sec. 3-1)

Sec. 31-9. Person propelling pushcarts, riding or driving animals to obey.

Every person propelling any pushcart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which, by their very nature, can have no application. (Ord. of 7-13-65, Sec. 3-4)

Sec. 31-10. Police Department authorized to suggest measures to prevent accidents.

Whenever accidents become numerous at any particular location, the Police Department shall conduct studies of such accidents and determine remedial measures. (Ord. of 7-13-65, Sec. 2-4)

Sec. 31-11. Immediate notice of accidents.

The driver of a vehicle involved in an accident resulting in injuries to or the death of any person or property damage to the estimated amount of one hundred dollars (\$100.00) or more shall immediately by the quickest means of communication give notice of such

accident to the Police Department if such accident occurs within the City. (Ord. of 7-13-65, Sec. 3-9)

Sec. 31-12. True name to be given subsequent to notice to appear.

It shall be unlawful for any person when given notice by any Police Officer or other authorized person to appear to answer for an offense against any provisions of this chapter to give other than his true name and true place of his residence or address, upon the request of such Police Officer or other authorized person. (Ord. of 7-13-65, Sec. 3-10)

Sec. 31-13. Permit for parades, processions.

No funeral procession or parade containing one hundred (100) or more persons or twenty-five (25) or more vehicles, except the forces of the United States Army or navy, the military forces of this state and the forces of the Police and Fire Departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the Chief of Police and such other regulations as are set forth which may apply. (Ord. of 7-13-65, Sec. 8-6)

Sec. 31-14. Clinging to vehicles.

No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway. (Ord. of 7-13-65, Sec. 8-11)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 1961.

Sec. 31-15. Vehicle tow-away procedures – Applicability.

The procedures herein set forth (in sections 31-16 through 31-18) shall be utilized in all cases where a vehicle is towed from any public way or public property or from any private property at the request or direction of the City. (Ord. of 9-15-80)

Sec. 31-16. Same – Notice to owner required.

A notice shall be sent to the registered owner of the vehicle towed, by regular mail, postage prepaid, during the next business day following the tow.

The notice shall state the following:

- (a) The registration number and a brief description of the vehicle;
- (b) The name and address of the person or company performing the tow;
- (c) The location of the vehicle;
- (d) The ordinance, statute or regulation violation which led to the tow;
- (e) The towing fee and any accruing storage charges;
- (f) That a hearing as provided herein is available if the owner feels that the tow was unauthorized or otherwise improper.

(Ord. of 9-15-80)

Sec. 31-17. Hearing provided.

A person whose vehicle has been towed at the request or direction of the City may request that a hearing be held to determine the validity of the tow. The hearing will be held by the Mayor or his representative within seventy-two (72) hours of a request for said hearing.

The petitioner shall be given notice of the time and location of the hearing and shall be allowed to present any evidence, testimony or documentation in support of his or her position and shall have the right to question any witnesses appearing in opposition to his or her position. The hearing shall be conducted as informally as possible consistent with due process.

The Mayor or his designated representative shall consider any relevant evidence or testimony and may uphold the validity of the tow-away. If the tow is not upheld, the City shall pay the full cost of the tow and any accrued storage charges assessed by the tow operator up to and including the day upon which the hearing is held. (Ord. of 9-15-80)

Sec. 31-18. Same – Appeal.

Any person aggrieved by a decision of the Mayor or his designated representative may appeal to the City Council in writing within ten (10) days of receipt of that decision in writing. The Council may uphold or reverse the Mayor's or his representative's decision. If the decision is reversed, the City shall pay the full towing fee and any accrued storage charges up to and including the day upon which the hearing before the Mayor or his representative was held. (Ord. of 9-15-80)

Sec. 31-19. Payment for accident cleanup.

Notwithstanding the other provisions of this chapter, the driver of any vehicle involved in an accident resulting in property damage shall be responsible, jointly and severally, for paying the actual costs of major cleanup performed by the city personnel during their normal off-duty time. (Ord. of 4-7-86)

Secs. 31-20 – 31-24. Reserved.

ARTICLE II. OPERATION.

Sec. 31-25. Authority to install traffic-control devices.

The Director of Public Works under the direction of the Chief of Police shall place and maintain traffic-control signs, signals and devices when and as required under the traffic ordinances of the City to make effective the provisions of such ordinances, and may place and maintain such additional traffic-control devices as he may deem necessary to regulate traffic under the traffic ordinances of the City or under State Law or to guide or warn traffic. (Ord. of 7-13-65, Sec. 4-1)

State law reference – Municipalities may by ordinance regulate traffic by means of signal devices, etc., 29 M.R.S.A. Sec. 1256.

Sec. 31-26. Manual and specifications for traffic-control devices.

All traffic-control signs, signals and devices shall conform to the specifications approved by the resolutions adopted by the legislative body of the City. All signs and signals required hereunder for a particular purpose shall, so far as practicable, be uniform as to type and location throughout the City. All traffic-control devices so erected and not inconsistent with the provisions of State Law or this chapter shall be official traffic-control devices. (Ord. of 7-13-65, Sec. 4-2)

Sec. 31-27. Obedience required to control devices.

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter. (Ord. of 7-13-65, Sec. 4-3)

Sec. 31-28. Improperly placed, illegible, missing traffic-control devices; enforcement of violation.

No provision of this chapter for which official traffic-control devices are required shall be enforced against an alleged violator, if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state the official traffic-control devices are required, such section shall be effective even though no devices are erected or in place. (Ord. of 7-13-65, Sec. 4-4)

Sec. 31-29. Presumption of legality of traffic-control devices.

- (a) Whenever official traffic-control devices are placed in position, approximately conforming with the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

- (b) Any official traffic-control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices, shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence. (Ord. of 7-13-65, Sec. 4-4.1)

Sec. 31-30. Schedule of traffic-control light devices.

The schedule of traffic-control light devices, being particularly Schedule III, is on file in the City Clerk's Office and is in no way affected by the adoption of this Code.

Sec. 31-31. Traffic-control signal legend.

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at the time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and such lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) *Green indication.*

- (1) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
- (2) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within the adjacent crosswalk and to other traffic lawfully using the intersection.
- (3) Unless otherwise directed by a pedestrian-control signal as provided in Section 31-32, pedestrians facing a green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(b) *Steady yellow indication.*

- (1) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.
- (2) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal as provided in Section 31-32, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(c) *Steady red indication.*

- (1) Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown.

- (2) Unless otherwise directed by a pedestrian-control signal as provided in Section 31-32, pedestrians facing a steady red signal alone shall not enter the roadway.
- (d) *At other than intersections*; where stop made. In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this Section shall be applicable except as to those provisions which, by their nature, can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking, the stop shall be made at the signal. (Ord. of 7-13-65, Sec. 4-5)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 947.

Sec. 31-32. Pedestrian-control signals.

Whenever special pedestrian-control signals exhibiting the words “Walk” or “Don’t Walk” are in place such signals shall indicate as follows:

- (a) Walk. Pedestrians facing such signals may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.
- (b) Don’t walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the don’t walk signal is showing. (Ord. of 7-13-65, Sec. 4-6)

State law references – For similar provisions, see 29 M.R.S.A. Sec. 951; municipal authority to regulate pedestrian traffic, 30 M.R.S.A. Sec. 2151.

Sec. 31-33. Flashing signal legend.

- (a) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:
 - (1) Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
 - (2) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.
- (b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in Section 31-54. (Ord. of 7-13-65, Sec. 4-7)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 952.

Sec. 31-34. Lane-direction-control signal.

When lane-direction-control signals are placed over the individual lanes of a street, vehicular traffic may travel in any lane over which a green signal is shown, but shall not enter or travel in any lane over which a red signal is shown. (Ord. of 7-13-65, Sec. 4-7.1

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 953.

Sec. 31-35. Unauthorized, illegal signs, signals, markings.

- (a) No person shall place, maintain or display upon or in view of any street an unauthorized sign, signal, marking or device which purports to be, or is an imitation of, or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.
- (b) No person shall place or maintain nor shall any public authority permit upon any street any traffic sign or signal bearing thereon any commercial advertising.
- (c) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the street is hereby empowered to remove the same or cause it to be removed without notice. (Ord. of 7-13-65, 4-8; Ord. of 12-1-86)

State law reference – For similar provisions, see 23 M.R.S.A. Sec. 1151.

Sec. 31-36. Interference with traffic-control devices, railroad signs, signals.

No person shall , without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof. (Ord. of 7-13-65, Sec. 4-9)

State law reference – For similar provisions, see 29 M.R.S.A. Secs. 948, 2186.

Sec. 31-37. Driving at immoderate speeds prohibited.

No person shall ride or drive at an unusual or immoderate rate of speed through any of the principal streets of the City, whereby any person may be endangered or unreasonably inconvenienced. (1942 Rev. Code, Ch. XVI, Sec. 3)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 1252

Sec. 31-38. Schedule of speed regulations.

The schedule of speed regulations as authorized by the Maine Department of Transportation, being particularly Schedule XII, is on file in the City Clerk's Office. (Ord. of 8-07-89)

Sec. 31-39. Authority to declare, mark play streets.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof, except drivers of vehicles having business or whose residences are within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof. (Ord. of 7-13-65, Sec. 4-11)

Sec. 31-41. Authority to designate, maintain crosswalks, safety zones.

The Chief of Police, with the approval of the Public Safety Committee of the Council, is hereby authorized to do the following:

- (a) Designate and maintain, by appropriate devices, marks or lines upon the surface of the streets, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary.
- (b) Establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians. (Ord. of 7-13-65, Sec. 4-12)

State law reference – Municipal authority to establish crosswalks and safety zones, 30 M.R.S.A. Sec. 2151.

Sec. 31-42. Authority to mark traffic lanes; operation within lanes.

- (a) The Director of Public Works under the direction of the Chief of Police is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is necessary.
- (b) Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement. (Ord. of 7-13-65, Sec. 4-13)

Sec. 31-43. Authority to designate temporary one-way streets.

- (a) In the event of an emergency requiring one-way traffic for the avoidance of traffic congestion which would be prejudicial to the health, safety and welfare of the inhabitants of the City or property located therein, the Chief of Police shall have the authority to designate streets or parts thereof as subject only to one-way traffic. Such designation shall be effective only if suitable signs be conspicuously placed on or about the entrances to and exits from such designated areas and such designation and signs shall be removed at the termination of such emergency.
- (b) In addition to emergency conditions, the following occasions shall be proper ones for application of the above power to designate temporary one-way traffic in areas affected by such occasions, such designations and signs to be removed after such conditions cease to exist:
 - (1) Parades
 - (2) Church services.
 - (3) Athletic events.

- (4) Any event, meeting or occasion attracting or likely to attract a large number of persons.
- (5) Excavations or other repairs to streets. (Ord. of 7-13-65, Sec. 4-14)

Sec. 31-44. Schedule of one-way streets.

The schedule of one-way streets, being particularly Schedule IV, is on file in the City Clerk's Office and is in no way affected by the adoption of this Code.

Sec. 31-45. Duty to place one-way street, alley signs; required locations.

Whenever any ordinance of this City designates any one-way street or alley, the Director of public Works under the direction of the Chief of Police shall place and maintain signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. (Ord. of 7-13-65, Sec. 6-1)

Sec. 31-46. Obedience required to one-way signs.

Upon those streets and parts of streets and in those alleys specified by the City, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited. (Ord. of 7-13-65, Sec. 6-2)

Sec. 31-47. Chief's authority to restrict direction of movement during certain periods.

- (a) The Chief of Police is hereby authorized to determine and designate streets, parts of streets or specific lanes thereon upon which vehicular traffic shall proceed in one(1) direction during one period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The Chief may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.
- (b) It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this section. (Ord. of 7-13-65, Sec. 6-3)

Sec. 31-48. Duty to place signs at through streets.

Whenever any ordinance of this City designates and describes a through street, it shall be the duty of the Director of Public Works under the direction of the Chief of Police to place and maintain a stop sign or on the basis of an engineering and traffic investigation at any intersection a yield sign, on each and every street intersecting such through street unless traffic at any such intersection is controlled at all times by traffic-control signals,

provided, however, that at the intersection of two (20 such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of such streets as may be determined by the Chief of Police upon the basis of an engineering and traffic study and upon the approval of the Public Safety Committee of the Council. (Ord. of 7-13-65, Sec. 7-2)

Sec. 31-49. Schedules of stop, yield signs.

The schedules of stop and yield signs, being particularly Schedules I and II, are on file in the City Clerk's Office and are in no way affected by the provisions of this Code.

Sec. 31-50. Duty upon approaching yield, stop signs.

- (a) The driver of a vehicle approaching a yield sign, if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.
- (b) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. (Ord. of 7-13-65, Sec. 7-3)

State law reference – For similar provisions, see 29 M.R.S.A. seC. 949.

Sec. 31-51. Duty upon entering stop intersection.

Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by Section 31-50 and after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on such highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection. (Ord. of 7-13-65, Sec. 7-4)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 949.

Sec. 31-52. Duty upon entering yield intersection.

The driver of a vehicle approaching a yield sign shall, in obedience to such sign, slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection; provided, however, that if such driver is involved in a collision with a vehicle in the intersection, after driving past a yield sign without stopping, such collision

shall be deemed prima facie evidence of his failure to yield the right-of-way. (Ord. of 7-13-65, Sec. 7-5)

Sec. 31-53. Emerging from alley, driveway or building.

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision and upon entering the roadway shall yield the right-of-way to all vehicles approaching on such roadway. (Ord. of 7-13-65, Sec. 7-6)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 944.

Sec. 31-54. Duties upon approach of railroad crossings.

- (a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet, but not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
 - (1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.
 - (2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train.
 - (3) A railroad train approaching within approximately fifteen hundred (1,500) feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness of such crossing, is an immediate hazard.
 - (4) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
- (b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (Ord. of 7-13-65, Sec. 7-8)

Sec. 31-55. Authority to place turn markers at intersections; obedience required.

- (a) The Director of Public Works under the direction of the Chief of Police is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be traveled by vehicles turning at such intersections, and such course to be prescribed by law or ordinance.
- (b) When authorized markers, buttons or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications. (Ord. of 7-13-65, Sec. 5-2)

Sec. 31-56. Authority to place restricted turn signs at intersections.

After the Council has determined those intersections at which drivers of vehicles shall not make a right, left or “U” turn, the Director of Public Works under the direction of the Chief of Police shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted. (Ord. of 7-13-65, Sec. 5-3)

Sec. 31-57. Schedule of prohibited, limited left turns.

The schedule of left turns that are prohibited and limited, being particularly Schedule X, is on file in the City Clerk’s Office and is in no way affected by the adoption of this Code.

Sec. 31-58. Obedience to restrictive turn signs required.

Whenever authorized signs are erected indicating that no right, left or “U” turn is permitted, no driver of any vehicle shall disobey the directions of any such sign. (Ord. of 7-13-65, Sec. 5-4)

Sec. 31-59. Required position, method of turning at intersections.

The driver of a vehicle intending to turn at an intersection shall do as follows:

- (a) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (b) Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (c) Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (Ord. of 7-13-65, Sec. 5-1)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 994.

Sec. 31-60. Turning around restricted.

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic. (Ord. of 7-13-65, Sec. 5-5)

State law reference – Turning around regulated, 29 M.R.S.A. Sec. 1152.

Sec. 31-61. Obstructing traffic at intersection, crosswalk.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed. (Ord. of 7-13-65, Sec. 7-7)

Saec. 31-62. Controlled-access roads; entrances, exits regulated.

No person shall drive a vehicle onto or from any controlled access roadway except at such entrances and exits as are established by public authority. (Ord. of 7-13-65, Sec. 8-12)

State law reference – for similar provisions, see 29 M.R.S.A. Sec. 992.

Sec. 31-63. Driving on sidewalks.

The driver of a vehicle shall not drive within any sidewalk area, except at a permanent or temporary driveway. (Ord. of 7-13-65, Sec. 8-7)

Sec. 31-64. Limitations on backing.

The driver of a vehicle shall not back such vehicle unless such movement can be made with reasonable safety and without interfering with other traffic. (Ord. of 7-13-65, Sec. 8-8)

Sec. 31-65. Privileges of authorized emergency vehicles.

- (a) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to, but not upon returning from, a fire alarm, may exercise the privileges set forth in this section, but subjected to the conditions herein stated.
- (b) The driver on an authorized emergency vehicle may:
 - (1) Park or stand, irrespective of the provisions of this chapter.
 - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
 - (3) Exceed the maximum speed limits so long as he does not endanger life or property.
 - (4) Disregard regulations governing direction of movement or turning in specified directions.
- (c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one (1) lighted lamp displaying a blue light visible under

normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a blue light visible from in front of the vehicle.

- (d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequence of his reckless disregard of the safety of others. (Ord. of 7-13-65, Sec. 3-7)

State law reference – Emergency vehicles required to have bell, siren, lights, 29 M.R.S.A. Secs. 1362, 1368.

Sec. 31-66. Duty on approach of authorized emergency vehicles.

- (a) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this State, or of a police vehicle properly and lawfully making use of an audible signal, the following shall apply:
 - (1) The driver of every vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the street clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
- (b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. (Ord. of 7-13-65, Sec. 3-8)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 946.

Sec. 31-67. Following, parking near fire apparatus.

The driver of any vehicle other than on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or drive into or park such vehicle within the block where such fire apparatus has stopped in answer to a fire alarm. (Ord. of 7-13-65, Sec. 8-1)

Sec. 31-68. Driving over fire hose.

No vehicle shall be driven over any unprotected hose of the Fire Department when laid down on any street, private driveway or track, to be used at any fire or alarm of fire, without the consent of the Fire Department Official in command. (Ord. of 7-13-65, Sec. 8-2)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 996.

Sec. 31-69. Driving through funeral or other processions.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or Police Officers. (Ord. of 7-13-65, Sec. 8-3)

Sec. 31-70. Driving in procession regulated.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the street as practicable and shall follow the vehicle ahead as close as is practicable and safe. (Ord. of 7-13-65, Sec. 8-4)

Sec. 31-71. Vehicles in procession to be identified as such.

A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such method as may be determined and designated by the Police Department. (Ord. of 7-13-65, Sec. 8-5)

Sec. 31-72. Commercial vehicles prohibited from using certain streets, exception.

When signs are erected giving notice thereof, no person shall operate at any time, any commercial vehicle upon any of the streets or parts of streets described in the appropriate schedule which is on file in the City Clerk's Office, except that such vehicles may be operated thereon for the purpose of delivering or picking up materials or merchandise, and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding thereon no farther than the nearest intersection thereafter. (Ord. of 7-13-65, Sec. 3-5)

Sec. 31-73. Use of coasters, skates, etc., restricted.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street. (Ord. of 7-13-65, Sec. 3-5)

Sec. 31-74. Riding on motorcycles.

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator. (Ord. of 7-13-65, Sec. 8-10)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 960.

Secs. 31-75 – 31-84. Reserved.

ARTICLE III. STOPPING, STANDING, AND PARKING⁶⁴

Sec. 31-85. Required close to curb.

Except as otherwise provided in this article, every vehicle stopped or parked upon a street where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within twelve (12) inches of the right-hand curb. (Ord. of 7-13-65, Sec. 11-1)

Sec. 31-86. Authority to mark streets for angle parking; when angle parking prohibited.

- (a) The Director of Public Works, under the direction of the Chief of Police, shall mark or sign those streets where angle parking has been permitted by the Council, but such angle parking shall not be indicated upon any federal-aid or state highway within the City unless the State Highway Commission has determined by resolution or order, entered in its minutes, that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.
- (b) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street. (Ord. of 7-13-65, Sec. 11-2)

State law reference – Municipal authority to lay out public parking places, 23 M.R.S.A. Sec. 2802.

Sec. 31-87. Obedience to angle-parking signs.

On those streets which have been signed or marked by the Chief of Police for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings. (Ord. of 7-13-65, Sec. 11-3)

Sec. 31-88. Permits for loading, unloading at angle to curb.

- (a) The Chief of Police is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privilege and therein stated and authorized herein.
- (b) It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit. (Ord. of 7-13-65, Sec. 11-4)

Sec. 31-89. Lamps on parked vehicles.

⁶⁴ **Cross reference** – Off-street parking and loading regulations, zoning, Part III, Sec. 15.

- (a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between one-half (1/2) hour after sunset and one-half (1/2) before sunrise, and in the event there is sufficient light to reveal any person or object within a distance of five hundred (500) feet upon such street or highway, no lights need be displayed upon such parked vehicle.
- (b) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred (500) feet upon such highway, such vehicle so parked or stopped shall be equipped with one (1) or more lamps meeting the following requirements: At least one (1) lamp shall display a white or amber light visible from a distance of five hundred (500) feet to the front of the vehicle, and the same lamp or at least one (1) other lamp shall display a red light visible from a distance of five hundred (500) feet to the rear of the vehicle, and the location of such lamp or lamps shall always be such that at least one (1) lamp installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle.
- (c) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed. (Ord. of 7-13-65, Sec. 11-5)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 1071.

Sec. 31-90. Prohibited in certain places.

- (A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:
 - (1) Stop, stand, or park a vehicle in the following places:
 - (a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - (b) On a sidewalk.
 - (c) Within an intersection.
 - (d) On a crosswalk.
 - (e) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the Chief of Police indicates a different length by signs or markings.
 - (f) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic.
 - (g) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
 - (h) On any railroad tracks.
 - (i) At any place where official signs prohibit stopping.
 - (2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
 - (a) In front of a public or private driveway.
 - (b) Within fifteen (15) feet of a fire hydrant.

- (c) Within twenty-five (25) feet of the near corner of the curb at an intersection, except where otherwise designated by the Chief of Police and the Public Safety Committee of the Council.
- (d) Within thirty (30) feet upon the approach of any flashing signal, stop sign, or traffic-control signal located at the side of a roadway.
- (e) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of such entrance when properly signposted.
- (3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged or unloading merchandise or passengers:
 - (a) Within fifty (50) feet of the nearest rail of a railroad crossing.
 - (b) At any place where official signs prohibit parking.
- (B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is lawful.
- (C) Any vehicle parked in a parking space designated as a handicapped parking space, that does not bear a special registration plate or placard issued under Title 29, Section 252, or similar plate issued by another State, shall be cited for a penalty of ten dollars (\$10.00). (Ord. of 7-13-65, Sec. 12-1; Ord. of 8-16-65; Ord. of 7-06-82)

Sec. 31-91. Prohibited and limited parking schedules.

The prohibited parking and limited parking schedules, being particularly Schedules V and VI respectively, are on file in the City Clerk's Office and are in no way affected by the adoption of this Code.

Sec. 31-92. Parking on street not to obstruct traffic.

No person shall park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic. (Ord. of 7-13-65, Sec. 12-2)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 1111.

Sec. 31-93. Parking in alleys not to obstruct.

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the street for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property. (Ord. of 7-13-65, Sec. 12-3)

Sec. 31-94. Parking to advertise for sale, wash, grease or repair prohibited; emergency exception.

No person shall park a vehicle upon any roadway for the principal purpose of:
(a) Displaying such vehicle for sale.

- (b) Washing, greasing or repairing such vehicle except repairs necessary by an emergency. (Ord. of 7-13-65, Sec. 12-5)

Sec. 31-95. Authority to erect signs prohibiting parking adjacent to schools.

- (a) Upon the passage of an ordinance prohibiting parking upon either or both sides of any street adjacent to any school property, the Director of Public Works under the direction of the Chief of Police shall erect signs indicating such prohibition.
- (b) When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place. (Ord. of 7-13-65, Sec. 12-6)

Sec. 31-96. Authorized to erect signs prohibiting parking on narrow streets.

- (a) The Director of Public Works under the direction of the Chief of Police is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet, or upon one side of a street indicated by such signs when the width of the roadway does not exceed thirty (30) feet.
- (b) When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign. (Ord. of 7-13-65, Sec. 12-7)

Sec. 31-97. Authority to erect no parking signs on left side of one-way streets.

The Director of Public Works under the direction of the Chief of Police, is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles, and when such signs are in place, no person shall stand or park a vehicle upon such left-hand side in violation of any such sign. (Ord. of 7-13-65, Sec. 12-8)

Sec. 31-98. Chief to determine, designate probable hazardous areas, prohibit use.

- (a) The Chief of Police is hereby authorized to determine and designate by proper signs places not exceeding one hundred (100) feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.
- (b) When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand or park a vehicle in any such designated place. (Ord. of 7-13-65, Sec. 12-9; Ord. of 8-16-65)

Sec. 31-99. Use of passenger curb loading zones.

No person shall stop, or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone

are effective, and then only for a period not to exceed three (3) minutes. (Ord. of 7-13-65, Sec. 13-1)

Sec. 31-100. Use of freight curb loading zone.

No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty (30) minutes. (Ord. of 7-13-65, Sec. 13-2)

Sec. 31-101. Schedule of loading zones.

The schedule of loading zones, being particularly Schedule VIII, is on file in the City Clerk's Office and is in no way affected by the adoption of this Code.

Sec. 31-102. Council to designate public carrier stops, stands; signs required.

The Council shall establish bus stops, bus stands, taxicab stands and stands for other passenger common-carrier motor vehicles on such public streets in such places and in such number as they shall determine to be the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand or other stand shall be designated by appropriate signs. (Ord. of 7-13-65, Sec. 13-3)

State law reference – Municipal authority to regulate all vehicles in public ways, routes and standing places of vehicles for hire, 30 M.R.S.A. Sec. 2151(3).

Sec. 31-103. Schedule of bus stops, taxi zones.

The schedules of bus stops and taxi zones, being particularly Schedules VIII and IX, are on file in the City Clerk's Office and are in no way affected by the adoption of this Code.

Sec. 31-104. Stopping, standing, parking of buses, taxicabs regulated.

- (a) The operator of a bus shall not stand or park such vehicle upon any street or at any place other than a bus stand so designated as provided herein.
- (b) The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in case of an emergency.
- (c) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen (18) inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.
- (d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provisions

shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers. (Ord. of 7-13-65, Sec. 13-4)

Sec. 31-105. Restricted use of bus, taxicab stands.

No person shall stop, stand or park a vehicle other than a bus in a bus stop or other than a hackney in a hackney stand, or other than a taxicab in a taxicab stand, when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus, hackney or taxicab waiting to enter or about to enter such zone. (Ord. of 7-13-65, Sec. 13-5.

Sec. 31-106. Restricted or prohibited on certain streets and publicly owned property.

- (a) The provisions of this section prohibiting the standing or parking shall apply at all times or at those times specified by ordinance or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control devices.
 - (b) When signs are erected giving notice thereof, no person shall park a vehicle upon those streets or between those hours designated by City Ordinance.
 - (c) When signs are erected in each location giving notice thereof, no person shall stop, stand or park a vehicle within the City between those hours specified by ordinance of any day except Sundays and public holidays.
 - (d) Department Boards, if none, Department Heads of the various departments and quasi-municipal departments may submit to the council restrictions on parking and operation of vehicles on property under their control, and when approved by the Council they shall be enforced when proper signs are posted. Those restrictions on vehicle movement and parking shall be established by ordinance.
 - (e) Whenever by this or any other ordinance of this City any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the Director of Public Works under the direction of the Chief of Police to erect appropriate signs giving notice thereof and no such regulations shall be effective unless such signs are erected and in place at the time of any alleged offense.
 - (f) When a vehicle is unlawfully parked it shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered.
- (Ord. of 7-13-65, Secs. 14 – 14-8)

State law reference – For similar provisions, see 30 M.R.S.A. Sec. 2151(3).

Sec. 31-107. Schedule of restricted, prohibited parking on publicly owned property.

The schedule of restricted and prohibited parking on publicly owned property, being particularly Schedule XIII, is on file in the City Clerk's Office and is in no way affected by the adoption of this Code.

Sec. 31-108. Winter parking regulated; obstructing snow removal; evidence of violation.

- (a) Parking vehicles upon any street in the City for more than one (1) hour between the hours of 12:00 a.m. and 6:00 a.m. each day during the period commencing *November fifteenth of each year and ending April fifteenth* of the following year is hereby prohibited. Provided, however, during snowstorm emergencies as declared by the Public Works Director, all on-street parking shall be prohibited. The City shall make reasonable effort to publicize such an emergency.
- (b) If a vehicle parked in violation of this section is obstructing snow removal, it will be hauled away at the owner's expense.
- (c) It shall be unlawful for any person to cause, allow, permit or suffer any vehicle registered in the name of or operated by such person to be parked as prohibited by this section.
- (d) The fact that a vehicle is parked in violation of the provisions of this section shall be prima facie evidence of the unlawful parking of such vehicle by the registered owner thereof. (Ord. of 3-22-60; Ord. of 7-13-65, Sec. 12-4; Ord. of 1-21-85)

Sec. 31-109. Abandoning of vehicle; removal.

No person shall abandon any vehicle of any kind on any street of the City. The Chief of Police is hereby authorized to remove at the owner's expense any such abandoned vehicle from any street and to store such vehicle at the owner's expense. For the purpose of this chapter, a vehicle shall be deemed abandoned after it has been parked on any street in Westbrook for a period of over twenty-four (24) hours. (Ord. of 7-13-65, Sec. 3-11)

Sec. 31-110. Opening and closing vehicle doors.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. (Ord. of 7-13-65, Sec. 8-9)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 957.

Sec. 31-111. Fees for parking violations.

The schedule of fees for parking violations is as follows:

- (a) Parking exceeding time limit.....\$20.00
- (b) Parking in taxi stand, bus stop or loading zone\$40.00
- (c) Parking all night\$20.00

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(d) Parking double	\$40.00
(e) Parking too near fire hydrant (Police discretion to tow vehicle).....	\$60.00
(f) Parking in prohibited area	\$40.00
(g) Parking on wrong side of street	\$20.00
(h) Parking too near cross or corner (Police discretion to tow vehicle)	\$20.00
(i) Parking in fire lane (Police discretion to tow vehicle)	\$20.00
(j) Parking in crosswalk	\$40.00
(k) Obstructing snow removal (Police discretion to tow vehicle)	\$60.00
(l) Parking in handicapped space (Police discretion to tow vehicle)	\$100.00
(m) Parking in front of public or private driveway (Police discretion to tow).....	\$40.00
(n) Failure to yield to pedestrians on crosswalks	\$40.00
(o) Other	\$20.00

If paid within 10 business days, a 25% reduction may be taken.

(Ord. of 5-1-78; Ord. of 6-7-82; Ord. of 3-3-86, Ord. of 9-11-95, Ord. of 4-13-98)

Sec. 31-112. Penalty.

Any person violating any parking provision of this chapter shall be subject to the general penalty provisions in Section 31-3; however, such person may elect, in lieu of such penalty, to pay the sum for each type of parking violation referred to in Section 31-107. Such offender may voluntarily contribute towards the cost and expense alternative method of regulating and administering traffic law violations.

If such payment is not made at the Police Station within forty-eight (48) hours after notice of such violation is served, by traffic ticket or otherwise, this alternative method is not available or applicable, and the penalty provided in Section 31-3 shall be imposed.

(Ord. of 7-13-65, Sec. 16-2)

Sec. 31-113. Chief's authority to waive payment for nonresidents.

The Chief of Police is authorized to waive payment on any parking violation ticket issued to a nonresident when in the opinion of the Chief such violation is due to lack of knowledge of such violated provision of this chapter; provided, however, that this benefit shall not be extended to any violation deemed by the Chief to be deliberate, continued or flagrant, and provided that in no event shall this benefit extend a violation of the provision prohibiting parking in violation of a fire hydrant area. (Ord. of 7-13-65, Sec. 16-3)

Sec. 31-114. Parking limitation for commercial vehicles.

- (a) No commercial vehicle in excess of ten thousand pounds (10,000) gross weight shall be allowed to stop, stand or otherwise park upon any street in excess of two (2) hours, except when in active use for the loading or unloading of merchandise or materials, or for the construction or reconstruction of said street.

- (b) The fact that such a commercial vehicle is parked in violation of the provisions of this section shall be prima facie evidence of the unlawful parking of such vehicle by the registered owner thereof. (Ord. of 12-16-74)

Sec. 31-115. Fire lanes – Established.

Fire lanes are established for the purpose of promoting the public health, safety, and welfare by recognizing that there exist and will in the future exist buildings and other areas within the City within which and to which the public will be invited, served or housed. These buildings or other areas must be provided prompt adequate emergency services including access by firefighters and fire-fighting equipment and other emergency personnel and equipment in order to accomplish said purposes and effect the saving of life and property in emergency situations. (Ord. of 7-12-82)

Sec. 31-116. Same – “Fire lane” and “parking area” defined.

- (a) A “fire lane” is defined for the purposes of this article as a designated unobstructed passageway at least twenty (20) feet in width with an outside turning radius of fifty (50) feet and constructed and maintained in a manner to permit free passage of fire apparatus and other emergency equipment and personnel from a public way to all necessary areas, regardless of season of year or weather conditions, around buildings, in area or in developments or subdivisions as may be required elsewhere in this article.
- (b) “Parking area”, as defined in this article, means lots, areas or other accommodations for the parking of motor vehicles off the street, alley or other way; which said lots, areas or other accommodations are available for use by the public either with or without charge. (Ord. of 7-12-82)

Sec. 31-117. Same – Applicability.

The provisions of this article [Sections 31-115 through 31-121] shall, in order to accomplish the stated purpose, be applicable to all proposed and existing developments, subdivisions, buildings and other premises which are included within the following:

- (a) Subdivisions as defined in Chapter 30 of this Code;
- (b) Any proposed construction requiring site plan review under Chapter 28 of this Code;
- (c) Any non-residential development not requiring subdivision approval under Chapter 30 of this Code or site plan review under Chapter 28 of this Code;
- (d) All schools, whether public or private;
- (e) Hospitals;
- (f) Convalescent homes, rest homes and/or nursing homes;
- (g) In addition to the foregoing, all other places of public assembly used for gathering together fifty (50) or more persons. (Ord. of 7-12-82)

Sec. 31-118. Same – Location.

- (a) Each application for residential or non-residential subdivision approval and each application for site plan review submitted to the Planning Board shall be reviewed by the Chief of the Fire Department. The Fire Chief shall review each such application to determine the location of such fire lanes as are necessary under this article of fire lanes to the Planning Board in writing; which findings, recommendations and suggested designations of fire lanes shall be made a part of the record of proceedings before the Planning Board on each such subdivision or site plan review application. In such cases, the decision of the Planning Board shall govern the requirements and designation of said fire lanes.
- (b) In any application for a building permit, occupancy or change of use permit not requiring subdivision or site plan review and approval but otherwise included within Section 31-117 above, the Building Inspector shall notify the Fire Chief of the application for permit and the Fire Chief shall designate directly to the owner, owners or agent of the premises for which permit application is made the location of required fire lanes.
- (c) Within existing developments and premises to which this article is applicable, the Fire Chief shall designate fire lanes by written order and shall notify in writing both the Westbrook Planning Board and the owner, owners or agents of such development or premises by certified mail of such designation and of any specific requirements for compliance with this article and shall publish notice of such establishment of such fire lanes once in a newspaper having general circulation within the City. The Fire Chief shall file one copy of any order of designation of any such fire lanes with the City Clerk. Any person aggrieved by such order may file with the Clerk, within fifteen (15) days after the date of the receipt of such aggrievement. A public hearing shall be held by the Municipal Officers, after which they may affirm, modify or rescind such order within thirty (30) days of the public hearing. They shall notify the Fire Chief, as may be applicable, by written communication of any and all action taken relative to the establishment of a fire lane. (Ord. of 7-12-82)

Sec. 31-119. Same – Maintenance and identification.

- (a) Fire lanes established under this article shall be kept free of ice and snow and rubbish containers or other obstructions. The owner, owners, agent or occupant of any premises to which this article is applicable shall cause to be erected, installed and maintained at their own expense, permanent, adequate signed bearing the words, “FIRE LANE – NO PARKING – VEHICLES WILL BE TOWED AT OWNER’S EXPENSE”, in or adjacent to said fire lane. Such owner, owners, agents or occupants shall cause such other and further designations as are reasonably required by the Fire Chief to warn persons to keep said fire lanes unobstructed. Failure to maintain a fire lane in accordance with this section shall render the owner, owners, agent or occupant of said development liable to a fine in accordance with the general penalty provision of this Code, with each continuing day of such violation constituting a separate offense.
- (b) Notice of establishment fire lanes shall prescribe a reasonable time for compliance. If compliance is not obtained within said time, then such owner, owners or agents shall be subject to a fine in accordance with the general penalty provision of this Code.

Each day following such specified time for compliance shall constitute a new and separate violation. (Ord. of 7-12-82)

Sec. 31-120. Same – Parking prohibited.

- (a) No person shall park or permit to stand a motor vehicle in any fire lane established in accordance with this article, except when actually picking up or discharging passengers or actively engaged in loading or unloading a motor vehicle.
- (b) Whenever any vehicle shall be found parked in violation of the regulations as established above, any police officer may attach to such vehicle a notice to the owner or operator thereof that such vehicle has been parked in violation of the regulations. Such owner or operator shall pay to the City the sum of sixty dollars (\$60.00) payment of which shall be due within five (5) business days of the issuance of the notice of said violation. Payment as stated above to the designated authority as stated on said parking violation notice shall be in lieu of a court appearance. The registered owner of said motor vehicle shall be presumed to be the operator of such vehicle. Any motor vehicle found parked or standing in a fire lane that has been established in accordance with this article, in addition to the foregoing, may be towed upon the direction of a police officer, to any public or private parking facility and all expense of such towing, and any subsequent storage shall be borne by the registered owner or operator of such vehicle, in accordance with procedure set forth in Section 31-16 through 31-18 of this Code. (Ord. of 7-12-82; Ord. of 4-13-98)

Sec. 31-121. Table of location.

Each fire lane designated under this article shall be particularly set forth in Schedule XIII, on file in the City Clerk's Office. (Ord. of 7-12-82)

Sec. 31-122 – 31-123. Reserved.

ARTICLE IV. PEDESTRIANS⁶⁵

Sec. 31-124. Subject to traffic-control signals.

Pedestrians shall be subject to traffic-control signals as heretofore declared in Sections 31-31 and 31-32 of this chapter, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this article. (Ord. of 7-13-65, Sec. 9-1)

State law reference – Applicability of signal legend to pedestrians, 29 M.R.S.A. Sec. 947.

Sec. 31-125. Right-of-way at crosswalks.

- (a) When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield,

⁶⁵ **State law reference** – For similar provisions, see 29 M.R.S.A. Sec. 955.

Cross reference – Pedestrians not to obstruct traffic, Sec. 22-3.

to a pedestrian crossing the street within a crosswalk when the pedestrian is upon the half of the street upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the street as to be in danger.

- (b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.
- (c) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (Ord. of 7-13-65, Sec. 9-3)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 954.

Sec. 31-126. To use right half of crosswalk.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (Ord. of 7-13-65, Sec. 9-3)

Sec. 31-127. Crossing at right angles.

No pedestrian shall cross a street at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk. (Ord. of 7-13-65, Sec. 9-4)

Sec. 31-128. Duty to yield.

- (a) Every pedestrian crossing a street at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the street.
- (b) The foregoing rules in this section have no application under the conditions stated in Section 31-129 when pedestrians are prohibited from crossing at certain designated places. (Ord. of 7-13-65, Sec. 9-5)

Sec. 31-129. When use of crosswalks required.

- (a) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.
- (b) No pedestrian shall cross a street other than in crosswalk in the central traffic district.
- (c) No pedestrian shall cross a street intersection diagonally unless authorized by official traffic-control devices pertaining to such crossing movements. (ORD. of 7-13-65, Sec. 9-6)

Sec. 31-130. Passing gates, barriers at railroad crossings.

No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed. (Ord. of 7-13-65, Sec. 9-7)

Sec. 31-131. Walking along roadways.

- (a) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon any adjacent street.
- (b) Where sidewalks are not provided, any pedestrian walking along and upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. (Ord. of 7-13-65, Sec. 9-8)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 904.

Sec. 31-132. Soliciting rides or business.

- (a) No person shall stand in a roadway for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle.
- (b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street. (Ord. of 7-13-65, Sec. 9-9)

State law reference – For similar provisions, see 29 M.R.S.A. Sec. 2188.

Sec. 31-133. Drivers to exercise care.

Every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any street and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (Ord. of 7-13-65, Sec. 9-10)

Sec. 31-134. Pedestrian right-of-way on Main Street crosswalks.

- (a) Pedestrians shall have the right-of-way when crossing Main Street within the four (4) designated crosswalks located between Ash Street and Mechanic Street. However, no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield the right-of-way.
- (b) The drivers of all vehicles shall yield the right-of-way to pedestrians when crossing said Main Street within said designated crosswalks and, whenever any vehicle is stopped at said crosswalks to permit a pedestrian to cross the street, the driver of any other vehicle approaching from the rear shall not overtake and pass such a stopped vehicle.
- (c) The Chief of Police is hereby authorized to cause appropriate signs to be erected at such locations as he deems necessary to warn vehicular traffic that it must yield the right-of-way to pedestrian traffic within said crosswalks. (Ord. of 5-01-78)

Secs. 31-135 – 31-139. Reserved.

ARTICLE V. VEHICLE TOWING.

Sec. 31-140. Purpose.

In order to protect persons who operate motor vehicles within the City limits, to insure that the streets, public ways, and public property remain open and free of hazard to the public, and to further effectuate the efficient enforcement of the City's traffic, parking, snow removal, and other ordinances, it is necessary to license and regulate those businesses providing vehicle wrecker or towing services at the request or direction of the City.

Sec. 31-141. Definitions.

In addition to the words elsewhere defined in the Code of Ordinances, the following terms shall have the meaning ascribed thereto, unless otherwise indicated:

Permanent Place of Business. Any building or permanently affixed structure located within the corporate limits of the City of Westbrook, which is owned or held under a lease or ascertainable rental agreement at the time the business is commences, and which, for the purposes of this Article, is used in whole or in part for the purpose of engaging in vehicle towing.

Towing List. A list maintained by the Westbrook Police Department, containing the names of those wreckers licensed by the City to respond to police requests for vehicle towing.

Wrecker. A business engaged in, or offering the services of, a vehicle wrecker, tow truck or carrier, whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle specifically adapted to and designed for that purpose. (Ord. of 2-02-93)

Business. A business entity lawfully organized under the laws of the State of Main which files a separate and distinct federal income tax return or lists the business on a Schedule C as a sole proprietorship. (Ord. of 3-04-96)

Sec. 31-142. Municipal license required.

No wrecker shall be eligible for placement on the City's towing list, which is utilized when motor vehicles are to be towed at the direction of the Police Department, without having obtained and maintained a valid wrecker license from the City of Westbrook. (Ord. of 2-02-93)

Sec. 31-143. Application procedure.

Applications for the wrecker license shall be procured from the City Clerk's office, completed and signed by the applicant, and filed with the Clerk. The following shall be submitted with the application:

1. Proof that the applicant is a legally-organized, principal place of business with the City of Westbrook. This may include copies of deeds, leases, rental agreements and Assessor's records; business filings with the Secretary of State; addresses shown on

- federal and State tax filings; copies of insurance coverage for the premises and for the employees therein; advertising; and motor vehicle registrations.
2. Evidence that each applicant owns/leases and operates its own wrecker(s). A copy of any tow vehicle registration, title and lease, where applicable, shall accompany the application.
 3. Evidence that the wrecker maintains a secure storage facility within the City of Westbrook for those vehicles towed at the request of the Westbrook Police Department.
 4. Evidence that the wrecker maintains satisfactory levels of insurance to satisfy claims arising out of the towing or storage of motor vehicles.
 5. Evidence that the wrecker, his employees or agents are available in Westbrook on a 24-hour, 365-day per year basis to ensure that stored vehicles are released with one hour of demand. (Ord. of 2-02-93)

Sec. 31-144. License fee.

A license applicant shall pay a fee of \$75.00 for each wrecker company, including one tow vehicle; and shall pay an additional fee of \$20.00 for each vehicle used in connection with the Westbrook towing list. The ownership of, and the payment of fees, for additional tow vehicles used in association with the tow list shall not entitle the wrecker company to additional positions on the towing list rotation. Such fees shall be paid at the time of this application, and are non-refundable. Licenses issued pursuant to this Article shall be valid for a term of one year from the date of issuance. (Ord. of 2-02-93, Ord. of 3-04-96)

Sec. 31-145. Investigation.

When a completed application is received by the Clerk's Office, the same together with required certificates of insurance; vehicle(s) title/lease and registration; and required evidence of business organization, shall be forwarded to the Chief of Police, the Code Enforcement Officer, and such other City Departments as required by City Codes or by the Municipal Officers. They shall proceed to investigate the applicant's compliance with the minimum regulations for wreckers, compliance with the zoning ordinance, and shall investigate the applicant's compliance with the with the minimum regulations for wreckers, compliance with the Zoning ordinance, and shall investigate the applicant's business reputation and moral character to the extend necessary to protect the public good. Following such investigation, recommendations for approval or disapproval shall be affixed to the Officers for consideration. (Ord. of 2-02-93; Ord. of 3-04-96)

Sec. 31-146. Standards for denial, suspension, or revocation.

The Municipal Officers in addition to other provisions of this Code authorizing such action, may deny, suspend, or revoke a wrecker license upon one or more of the following grounds:

1. There has been a failure to fully complete the annual application or to pay any fee required hereunder. There has been a knowing omissions or incorrect statement of

material fact on the application, or a license has otherwise been obtained by fraud or concealment.

2. The applicant has been convicted of a felony or a crime of moral turpitude within five years of the date of the application or during the term of the wrecker license.
3. The wrecker has violated any of the requirements set forth herein.
4. The City is not satisfied with the general services of the wrecker or its employees or with the cooperation it has received when services are rendered; or the applicant's business otherwise has been the source of consumer complaints.
5. The applicant's real estate and personal property taxes, registration fees, sewer and other charges associated with the business, either at the business office or the storage yard, are in arrears with the City of Westbrook.

Sec. 31-147. Ongoing requirements.

The following minimum regulations must be met on a continuous basis:

1. Each registrant shall be a legally organized business, having a place of business, i.e., an office located in a conforming zoning district or operating as a legal non-conforming use under the zoning ordinance, from which the business and wrecker vehicle operate, and having a storage location for all vehicles towed by that company which also must be located within the City of Westbrook.
2. Each registrant shall own/lease and operate its own wrecker(s), which for the purposes of this ordinance, must be used exclusively by the licensed wrecker business. Registrant shall supply the Chief of Police with the vehicle registration and title/lease to show ownership of the wrecker, and further shall supply such other evidence as he shall require that demonstrates that the wrecker vehicle will be used exclusively by that single wrecker business in connection with the towing list rotation.
3. Each wrecker shall maintain an authorized, insured storage facilities within the City of Westbrook for those vehicles towed.
4. Each wrecker business shall maintain its own, separate insurance coverage for place of business, storage facility, wrecker vehicle, and employee, indicating the following coverages:
 - A. *Garage keeper's policy* – covering fire, theft, windstorm, vandalism, and explosion, in the amount of at least \$20,000.
 - B. *Garage keeper's liability policy* – covering the operation of the applicant's business, equipment, and vehicles for any bodily injury or property damage. This policy shall be in the minimum single limit amount of \$100,000.
 - C. *Road Service liability* – covering the lifting, hoisting, and towing of vehicles in the minimum amount of \$35,000.
5. By the act of accepting a wrecker license, each licensee agrees that it will defend, indemnify, and hold harmless the City, its officers and employees from all claims for damages, including the reasonable cost of defense and attorney's fees resulting from the towing or storage of vehicles under this ordinance.
6. Each wrecker shall maintain such records as may be required by the Chief of Police and shall permit their inspection during normal business hours. Among these, the Chief may require that a prescribed vehicle accident damage form be completed prior

to towing any vehicle; that a receipt be kept, acknowledged by the claimant of a towed vehicle, showing all charges assessed for towing, storage, and repair; and that all records indicate the place of vehicle storage and any damage sustained during or after the towing operation.

7. Each wrecker shall permit the Chief of Police or his designee to conduct regular inspections of each towing vehicle and each storage area during normal business hours.
8. Licensees shall arrive at the scene within thirty (30) minutes of receipt of a request for service from the Westbrook Police Department.
9. Vehicles must be towed, not driven, to the designated storage facility. No vehicle shall be towed to a lot outside the City of Westbrook.
10. At the request of the police, a wrecker shall clean the accident area of any debris resulting from the accident.
11. Each wrecker vehicle used in conjunction with this ordinance shall be permanently lettered with the company name and phone number of the licensed wrecker business. (Ord. of 3-04-96)

Sec. 31-148. Wrecker selection procedure.

1. Those wreckers that have been licensed by the Municipal Officers shall be placed on the towing list, which shall be utilized in those instances in which a vehicle is to be towed from a public way or public property or from any private property at the request or direction of the City. Each wrecker business shall maintain a separate telephone number which may be used by the police dispatcher when selecting a wrecker and at which the car owner can contact the wrecker business to secure the return of their vehicle.
2. When a request for vehicle towing is received at the Police Department, the dispatcher or his supervisor shall select the name of the wrecker which next succeeds the last wrecker called for towing services. Such wrecker selections shall proceed in a rotating manner until the end of the list is reached, at which point wreckers shall again be selected from the top of the list, consecutively.
3. In the event that a wrecker does not respond to a phone call from the Police Department or otherwise does not respond to the scene in a timely manner, the next name on the towing list shall be called. Then, should more than one wrecker respond to the scene, the last one called from the Police Department shall be entitled to the tow. Any wrecker called shall not be called again until its name next appears in the rotation.
4. Those wreckers who operate more than one towing vehicle shall be selected only once during each rotation of the towing list. (Ord. of 2-02-93)
5. No tow truck, wrecker, or carrier used by one wrecker business to respond to Police requests for towing may be used by any other registrant in connection with the towing list, irrespective of any business organization, lease/title, vehicle registration, or other agreement, by which registrants might otherwise share the use of a wrecker vehicle. (Ord. of 3-04-96)

Sec. 31 – 149. Other wrecker selection.

1. No wrecker shall respond to the scene of an accident or other emergency unless specifically called there by the Westbrook Police Department Dispatcher or the owner or operator of the vehicle involved. No wrecker, agent or employee, shall solicit towing contracts at the scene. However, nothing in this chapter shall be construed as prohibiting a towing service from privately contracting with any person.
2. In the event that a vehicle owner or operator requests a wrecker of his own preference, the Police Department will attempt to secure the services of the wrecker chosen, provided they are reasonably available, given the nature of the circumstances.
3. In the event that the vehicle owner or operator selects his own wrecker, then the towing list shall be disregarded, and the rotation shall remain unchanged.

Sec. 31-150. Special conditions.

At his discretion, the Chief of Police or his designee may select a wrecker that does not appear in the towing list sequence when required by exigent circumstances surrounding vehicle removal or the need for special equipment and procedures. (Ord. of 2-02-93)

Sec. 31-151. Nondiscrimination.

Notwithstanding the procedures set forth herein, nothing in this ordinance, or in the towing regulations previously in effect, creates a vested or exclusive right to be called or selected for a towing operation requested by an employee or official of the City of Westbrook. Nothing in the provisions contained herein is designed or intended to restrain the course of free trade or to restrict the number of qualified licensees on the towing list. (Ord. of 2-02-93)

Sec. 31-152. Removal.

1. The Chief of Police, upon notice and opportunity for hearing, is authorized to remove a wrecker from the towing list or otherwise suspend the privileges accorded hereby upon finding one of the following:
 - a. That the towing list registration was secured by fraud or by concealment of a material fact by the wrecker owner and such fact, if known, would have caused disqualification.
 - b. That the wrecker owner has violated any of the ongoing requirements established herein.
 - c. That the City is not satisfied with the general services of the wrecker or its employees, or with the cooperation received when services are rendered.
2. In the event that the Chief of Police removes a wrecker from the tow list, the company may appeal that action to the Municipal Officers. Should they reverse the decision, then the wrecker shall be entitled only to be placed back on its former place on the tow list. (Ord. of 2-02-93)

Sec. 31-158. Rate schedule.

WESTBROOK CODE

As an express condition of licensure, each wrecker shall charge no more than the following fees in those cases in which a vehicle has been towed and stored at the request of the Westbrook Police Department. The schedule of fees shall not be modified except by action of the Westbrook city Council.

Towing fee	\$55.00
Vehicle storage (per 24 hour period or fraction after the first 24 hours	\$15.00
Storage release after 6 p.m.	\$15.00
Difficult extraction (after 1 st hour on scene)	\$45.00/hr

(Ord. of 2-02-93; Ord. of 3-04-96)

Secs. 31-159 – 31-164. Reserved.

ARTICLE VI. PARKING SCOFFLAW ORDINANCE

Sec. 31-165. Purposes.

The purpose of this Article is to improve the enforcement of the City parking ordinances; to improve vehicular circulation and relieve congestion; and to discourage habitual violators.

Sec. 31-166. Definitions.

- (a) *Boot*. A device consisting of metal clamps or jaws and a padlocking device, which, when attached to the wheel of a motor vehicle, results in immobilization.
- (b) *Outstanding parking ticket*. Notice of violation of any City of Westbrook parking ordinance for which the owner of the offending vehicle has finally determined to be in violation by reason of default or otherwise; and the resultant fine or waiver fee established pursuant to 30-A M.R.S. Sec. 3009 has not been paid.
- (c) *Delinquency Notice*. A notice sent to the registered owner of the vehicle for which a parking ticket has been issued and has not been paid within the prescribed period of time.

Sec. 31-167. Parking Scofflaw.

Any vehicle which accumulates four (4) or more outstanding parking tickets after the effective date of this ordinance, for which there has been neither payment of waiver fees nor issuance of court process and which is then parked in violation of any such parking ordinance or regulation, may at option of any Westbrook Police Officer be immobilized in place with a vehicle boot or removed and stored pursuant to the towing provisions of this chapter.

Sec. 31-168. Notice.

No immobilization or towing of a vehicle pursuant to this article shall take place until a delinquency notice on the fourth outstanding parking ticket has been issued for at least

thirty (30) days. The notice shall state that a booting and/or towing order will soon be carried out against the subject motor vehicle. The owner shall have reasonable opportunity, during the notice period, to question or contest that order with the Chief of Police.

Sec. 31-169. Immobilization and Removal.

If, after the notice period provided in Section 31-168, the owner has not paid all outstanding parking tickets or presented satisfactory evidence to the Police Department or the Finance Department that their records relating to the owner's failure to pay are in error, the offending vehicle may thereafter be immobilized or towed immediately upon a further parking violation. If a boot is placed on the vehicle, it shall constitute notice to the owner that such vehicle has been immobilized pursuant to this article. A notice shall be placed in a conspicuous manner on such vehicle sufficient to warn any individual that such vehicle has been immobilized by the Westbrook Police Department; that any attempt to move such vehicle is unlawful and may result in damage thereto; and shall state the requirements for release as herein set forth. The police officer requesting the towing of a vehicle under this article shall notify the dispatcher of the location of removal, which shall be recorded for the use of the Chief of Police and Finance Director. If a booted vehicle has not been released within forty-eight (48) hours after immobilization, it may be towed to a storage area, and the owner shall be liable for the additional costs of towing and storage. When a vehicle is towed pursuant to this section, notice of the removal shall be sent by the Police Department to the vehicle owner by first-class mail within seventy-two (72) hours whenever possible, indicating the place of storage, the reason for impoundment, and the conditions for release. No notice is required when the owner contacts the Department within seventy-two (72) hours of removal.

Sec. 31-170. Release of Vehicles.

Any police officer or towing company having custody of a vehicle pursuant to the provisions of this article shall not release it until the individual requesting its release presents satisfactory evidence of his right to possession and signs a receipt therefor, and:

- (a) The Finance Director or Chief of Police certifies that the waiver fees for all outstanding parking tickets after date of adoption of this ordinance have been paid as well as all charges for the removal of the vehicle boot and/or the costs of towing and storage, as established by ordinance; or
- (b) The Finance Director certifies that a bond has been posted equal to the amount of the waiver fees for all outstanding traffic tickets which should have been remitted and the other charges set forth hereinabove; or
- (c) The Chief of Police certifies that such person has both demonstrated that he is unable to pay the accumulated waiver fees by reason of poverty, having provided satisfactory proof of such status, and has accepted service of process initiating a court proceeding to determine his liability for the alleged parking violations, and such person pays all the booting and/or towing and storage charges.

Sec. 31-171. Bond.

Whenever any person requests the right to post bond pursuant to Section 31-170(b), such bond shall be given in cash and a receipt given therefor. Such bond money shall be refunded in the amount of the waiver fee for each alleged parking violation upon acceptance by that person of service of process initiating a court proceeding to determine his liability for the prescribed penalty for such alleged violations. Any bond shall be forfeited unless the person posting it requests and accepts service of process from the Chief of Police within thirty (30) days of posting, unless prevented from doing so by actions or inaction of the City.

Sec. 31-172. Refund of booting and towing charges.

Whenever any person obtains a determination from a court of competent jurisdiction that the vehicle was not parked in violation of the parking ordinance at the time it was immobilized or impounded pursuant to this article, such person shall be reimbursed for the charges of immobilization and/or for towing and storage costs if paid, and if such charges have not been paid, they shall be paid or cancelled promptly by the City.

Sec. 31.-173. Violation.

It shall be unlawful for any person to tamper with or attempt to remove any immobilizing device attached to a vehicle, or to attempt to transport such booted vehicle without authorization of the Chief of Police, or to obstruct or attempt to prevent the removal of a vehicle as provided in this article. Such violation shall be subject to the General Penalty set forth in Section 1-8.

(Ord. of 9-25-95)

Chapter 32
TREES⁶⁶

Sec. 32-1. Short title.

The Chapter shall be known and may be cited as the “Municipal Tree Ordinance of the Municipality of Westbrook”. (Ord. of 12-11-72, Sec. 1)

Sec. 32-2. Definitions.

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The work shall be mandatory and not merely directory.

Forestry Department is the designated department of the Municipality under whose jurisdiction park and/or street trees fall.

Municipal Arborist is the designated official of the Municipality of Westbrook assigned to carry out the enforcement of this chapter.

Person is any person, firm, partnership, association, corporation, company, or organization of any kind.

Property line shall mean the outer edge of a street or highway right-of-way.

Property owner shall mean the person owning such property as shown by the tax maps, City of Westbrook, unless proof to the contrary is available.

Public places shall include all grounds owned by the Municipality of Westbrook.

Public trees shall include all shade and ornamental trees now or hereafter growing on any street or any public areas or overhanging said street or public areas.

Street or highway means the entire width of every public way or right-of-way when any part thereof is open to the use of public, as a matter of right.

Trees:

- (a) Large trees are designated as those attaining a height of forty-five (45) feet or more.
- (b) Medium trees are designated as those attaining a height of thirty (30) to forty-five (45) feet.
- (c) Small trees are designated as those attaining a height of twenty (20) to thirty (30) feet.

Treelawn is that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic. (Ord. of 12-11-72, Sec. 2)

Sec. 32-3. Duties of Recreation-Conservation Commission.

⁶⁶ **Editor’s note** – Ordinance of December 11, 1972, Secs. 1-11, amended this Code by adding, Ch. 19 ½, which chapter has been redesignated as Ch. 32 by the editors for purposes of classification. In the codification of said Secs. 1-11 as Secs 32-1 – 32-12, the editors revised catch lines and added and revised catchphrases in several instances in order to facilitate indexing, reference and use.

The duties of the Recreation-Conservation Commission shall be as follows:

- (a) To study the problems and determine the needs of the City, in connection with its tree planting program.
- (b) To recommend to the City Council the type and kinds of trees to be planted upon such municipal streets or parts of municipal streets or in parks as is designated.
- (c) To assist the properly constituted officials and citizens of the municipality in the dissemination of news and information regarding the selection, planting, and maintenance of trees with the corporate limits, whether the same be on private or public property, and to make such recommendations from time to time to the City Council as to desirable legislation concerning the tree program and activities for the municipality.
- (d) To provide regular and special public meetings at which the subject of trees, insofar as it relates to the municipality, may be discussed. (Ord. of 12-11-72, Sec. 3)

Sec. 32-4. Qualifications of Municipal Arborist⁶⁷

The Municipal Arborist shall be a person skilled and trained in the arts and sciences of municipal arboriculture and shall hold a college degree or its equivalent in arboriculture, ornamental or landscape horticulture, urban forestry, or other closely related field. In Maine where there is a State Arborist Examining Board, he shall have passed the State examination and shall hold a current regular arborist's license from the State of Maine. (Ord. of 12-11-72, Sec. 4)

Sec. 32-5. General duties of arborist; alternate arborist.

The Municipal arborist shall have the authority to promulgate the rules and regulations of the arboricultural specifications and standards or practice governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees on the streets or other public sites in the municipality and shall direct, regulate, and control the planting, maintenance, and removal of all trees growing now or hereafter in any public area of the Municipality of Westbrook. He shall cause the provision of this chapter to be enforced. In his absence these duties shall be the responsibility of a qualified alternate designated by the Recreation-Conservation Commission. (Ord. of 12-11-72, Sec. 5)

Sec. 32-6. Authority and responsibilities of arborist generally.

- (a) Insure safety and preserve aesthetics. The Municipal Arborist shall have the authority and jurisdiction of regulating and planting, maintenance, and removal of public trees on streets and other publicly-owned property to insure safety or preserve the aesthetics of such public sites.
- (b) Supervise and inspect. The Municipal Arborist shall have the authority and it shall be his duty to supervise or inspect all work done under a permit issued in accordance with the terms of this chapter.

⁶⁷ **Cross reference** – Office of City Arborist established, Sec. 2-51.

- (c) Affix conditions to permits. The Municipal Arborist shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this chapter.
- (d) Formulate master street tree plan; contents, effect of plan. The Municipal Arborist shall have the authority to formulate a master street tree plan with the advice and approval of the Recreation-Conservation Commission. The master street tree plan shall specify the species of trees to be planted on each of the streets or other public sites of the municipality. From and after the effective date of the master street tree plan, or any amendment thereof, all planting shall conform thereto.
 - (1) *Consideration of utility and environmental factors.* The Municipal Arborist shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets and other public specific species for each of the streets and other public sites of the municipality.
 - (2) *Amendments.* The Municipal Arborist, with the approval of the Recreation-Conservation Commission, shall have the authority to amend or add to the master street tree plan, at any time that circumstances make it advisable. (Ord. of 12-11-72, Sec. 6)

Sec. 32-7. Permits generally.

- (a) Planting, maintenance or removal generally.
 - (1) No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground, or otherwise disturb any tree on any street or municipally owned property without first filing an application and procuring a permit from the Municipal Arborist or otherwise specified municipal authority. The person receiving the permit shall abide by the arboricultural specifications and standards of practice adopted by the Municipal Arborist. In emergency situations, adopted by the Municipal Arborist. In emergency situations, such as storm damage to trees, requiring immediate pruning or removal, the work may be done; however, the arborist must be informed of such action within two (2) days thereafter.
 - (2) Application for permits must be made at the Office of the Municipal Arborist not less than forty-eight (48) hours in advance of the time the work is to be done.
 - (3) Standards of issuance. The Municipal Arborist shall issue the permit provided for herein if, in his judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.
 - (4) Notice of completion shall be given within five (5) days to the Municipal Arborist for his inspection.
- (b) Planting:
 - (1) *Application data.* The application required herein shall state the number of trees to be set out; the location, grade, species, cultivar or variety of each tree; the method of planting; and such other information as the Municipal Arborist shall find reasonably necessary to a fair determination of whether a permit should be issued.

- (2) *Improper planting.* Whenever any tree shall be planted or set out in conflict with the provisions of this section, it shall be lawful for the Municipal Arborist to remove or cause removal of the same, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.
- (c) Maintenance:
 - (1) *Application data.* The application required herein shall state the number and kinds of trees to be sprayed, fertilized, pruned, or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the Municipal Arborist shall find reasonably necessary to a fair determination of whether a permit should be issued.
- (d) Removal, replanting and replacement:
 - (1) Whenever it is necessary to remove a tree or trees from a treelawn in connection with the paving of a sidewalk, or the paving or widening of the portion of a street or highway used for vehicular traffic, the Municipality shall replant such trees or replace them. Provided that conditions prevent planting on treelawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided for in the arboricultural specifications are planted on the adjoining property.
 - (2) No person or property owner shall remove a tree from the treelawn for the purpose of construction, or for any other reason, without first filing an application and procuring a permit from the Municipal Arborist, and without replacing the removed tree or trees in accordance with the adopted arboricultural specifications. Such replacement shall meet the standards of size, species, and placement as provided for in a permit issued by the Municipal Arborist. The person or property owner shall bear the cost of removal and replacement of all trees removed. (Ord. of 12-11-72, Sec. 7)

Sec. 32-8. Abuse, mutilation, unauthorized removal of public trees.

Unless specifically authorized by the Municipal Arborist, no person shall intentionally damage, cut, carve, transplant or remove any tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree, allow any gaseous liquid, or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any tree. (Ord. of 12-11-72, Sec. 8)

Sec. 32-9. Interference with Municipal Arborist.

No person shall hinder, prevent, delay, or interfere with the Municipal Arborist or any of his assistants while engaged in carrying out the execution or enforcement of this chapter; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the municipality. (Ord. of 12-11-72, Sec. 9)

Sec. 32-10. Protection of public trees.

- (a) All trees on any street or other publicly owned property near any excavation or construction of any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box not less than four (4) feet high and eight (8) feet square, or at a distance in feet from the tree equal to the diameter of the trunk in inches D.B.H., whichever is greater, and all building material, dirt, or other debris shall be kept outside the barrier.
- (b) No person shall excavate any ditches, tunnels, trenches, or lay any drive within a radius of ten (10) feet from any public tree without first obtaining a written permit from the Municipal Arborist. (Ord. of 12-11-72, Sec. 10)

Sec. 32-11. Impeding free passage of water, air and fertilizer to roots of trees.

No person shall deposit, place, store, or maintain upon any public place of the municipality any stone, brick, sand, concrete, or other materials which may impede the free passage of water, air, and fertilizer to the roots of any tree growing therein, except by written permit of the Municipal Arborist. (Ord. of 12-11-72, Sec. 11)

Sec. 32-12. Authority of Municipal Arborist to promulgate rules and regulations of the arboricultural specifications and standards of practice.

The Municipal Arborist shall have the authority to promulgate the rules and regulations of the Arboricultural Specifications and Standards of Practice governing the planting, maintenance, removal, fertilization, pruning, and bracing of trees on the streets or other public sites in the municipality. (Ord. of 12-11-72, Sec. 11)

Chapter 33
VEHICLES FOR HIRE⁶⁸

- Art. I. In General, Secs. 3301 – 33-11
Art. II. Taxicabs, Secs. 33-12 – 33-37

ARTICLE I. IN GENERAL

Sec. 33-1. General Penalty.

Whenever in this chapter any act is prohibited or is made or declared to be unlawful or a misdemeanor, or whenever in this chapter the doing of an act is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of such provision of this chapter shall be punished by a fine of not more than one hundred dollars (\$100.00) plus costs. All fines shall be recovered on complaint to the use of the City. Each day any violation of any provision of this chapter shall continue shall constitute a separate offense.

Secs. 32-2 – 33-11. Reserved.

ARTICLE II. TAXICABS⁶⁹

Sec. 33-12. Defined.

A taxicab is a motor vehicle used or to be used for the conveyance of passengers for hire, without fixed routes or termini, the destination and route of which are under the control of the passenger being carried therein. (1942 Rev. Code, XLI, Sec. 1; Ord. of 3-14-46)

Sec. 33-13. License required.

No person shall operate a taxicab or cause such taxicab to be operated in the City unless licensed as hereinafter provided. (1942 Rev. Code, Ch. XLI, Sec. 3; Ord. of 3-14-46)

Sec. 33-15. Applicability to owners prior to ordinance.

- (a) Every owner, operating a licensed taxicab prior to the effective date of this chapter, shall be presumed, in the absence of any contrary findings by the Municipal Officers, to have established prima facie evidence of the requirements set forth in operation, and the Municipal Officers, upon written application, may grant such certificate to the owner.
- (b) After the service for which any certificate has been granted is discontinued or otherwise terminated then such certificate to be issued in place thereof shall be issued

⁶⁸ **Cross references** – Traffic, Ch. 31.

State law reference – Municipal authority to regulate vehicles for hire, 30 M.R.S.A. Sec. 2151(3).

⁶⁹ **Cross references** – License fee for owner and operator of taxicab, Sec. 20-4; Council to designate taxicab stands, Sec. 341-102 et seq.

only in accordance with the provisions of this chapter. (1942 Rev. Code, Ch. XLI, Secs. 8, 9; Ord. of 3-14-46)

Sec. 33-16. Contents of application for certificate.

An application for a certificate of public necessity and convenience shall be made on forms provided by the City and shall set forth the names and addresses of the applicants, trade name under which the applicant does or proposes to do business, the number of vehicles the applicant desires to operate and a clear description of each vehicle, where proposed garages and stands are to be located and such other facts as the Municipal Officers may requires. (1942 Rev. Code, Ch. XLI, Sec. 3; Ord. of 3-14-46)

Sec. 33-17. Mayor's report prior to issuance of certificate.

Before each certificate of public necessity and convenience shall be issued, the Mayor shall cause an investigation to be made and report his findings in writing to the Municipal Officers on the following: The demand of the public for additional taxicab service, financial responsibility and experience of the applicant, adequacy of existing transportation and taxicab service, and such other and revelant facts as he may deem useful. (1942 Rev. Code, Ch. XLI, Sec. 4; Ord. of 3-14-46)

Sec. 33-18. Inspection of cab prior to issuance of license.

No license shall be issued for any taxicab unless and until the Chief of Police shall certify that such cab is safe and suitable to be used for that purpose. The owner shall deliver it to the Chief of Police for inspection. (1942 Rev. Code, Ch. XLI, Sec. 5; Ord. of 3-14-46)

Sec. 33-19. Insurance requirements.

No license shall be issued for any taxicab until the owner has filed with the City Clerk an insurance policy covering the period of the license, issued and executed by an insurance company having a permit to issue such policy in the State of Maine, in the usual form of automobile liability insurance policies in this State for injuries to persons and property from the use and operation of such taxicab. Such policy of insurance shall be issued for a principal sum, sufficient to provide indemnity for personal injury in an amount not less than one hundred thousand dollars. (\$100,000.00) for personal injury arising out of one (1) accident, and for property damage to the amount of twenty-five thousand dollars (\$25,000.00). Such insurance policy shall bear an endorsement thereon by the issuing agent that the same is to be deposited with the City Clerk under the provisions of this chapter. (1942 Rev. Code, Ch. XLI, Sec. 6; Ord. of 3-14-46; Ord. of 7-01-1991)

Sec. 33-20. Issuance of license for vehicles.

Upon presentation of (a) a certificate of public necessity and convenience within thirty (30) days from its date, (b) satisfactory evidence that license fees established in Section 20-4 have been paid, (c) certificate of condition from Chief of Police (d) liability

insurance policy properly endorsed. Then the Municipal Officers may issue to the applicant a license for each car set out in the certificate of necessity and convenience. (1942 Rev. Code, Ch. XLI, Sec. 7; Ord. of 3-14-46)

Sec. 33-21. Application for driver's license; contents.

Applications for licenses to drive taxicabs shall be on forms furnished by the City and shall set forth under oath such information as the Municipal Officers may require. (1942 Rev. Code, Ch. XLI, Sec. 13; Ord of 3-14-46)

Sec. 33-22. Access to arrest records.

Applicants for taxicab driver's licenses must furnish any necessary permission or waiver to allow the Chief of Police to secure criminal records information from the State Bureau of Identification and/or the National Crime Information Center. (Ord. of 3-03-80)

Editor's note – An ordinance of March 3, 1980, repealed Sec. 23-22 relative to furnishing letters of arrest records by applicants for taxicab driver's licenses and, in lieu thereof, enacted a new Sec. 33-22 concerning similar subject matter. The former section derived from 1942 Re. Code, Ch. XLI, Sec. 23; an ordinance of March 14, 1946 and an ordinance of September 10, 1953.

Sec. 33-23. Applicant's requirements generally.

No taxicab driver's license or renewal shall be granted to any person unless he is in good physical condition certified by a doctor's examination certificate, nor unless he can read, write and speak the English language intelligently, nor unless he shall present a valid driver's license issued to him by the State of Maine. (1942 Rev. Code, Ch. XLI, Sec. 13; Ord. of 3-14-46)

Sec. 33-24. Temporary driver's permit pending action on license.

Upon receipt of an application for a license to drive a taxicab which is complete and in proper form and pending the issuance or denial of such a license by the Municipal Officers, the City Clerk may, upon the recommendation of the Chief of Police, and with the approval of one (1) member of the Council's License Committee and the payment of one dollar (\$1.00) fee, issue to the applicant a temporary permit to drive such taxicab for a period of ninety (90) days from the date it is issued; provided, however, that such permit shall expire upon the issuance or the denial of a license to the applicant by the municipal officers within such ninety (90) day period. (1942 Rev. Code, Ch. XLI, Sec. 13(a); Ord. of 3-14-46; Ord. of 5-03-61)

Sec. 33-25. Issuance of driver's license to person under nineteen prohibited.

Licenses to taxicab drivers shall not be issued to person less than nineteen (19) years of age. (1942 Rev. Code, Ch. XLI, Sec. 22; Ord. of 3-14-46; Ord. of 11-03-48; Ord. of 3-03-53; Ord. of 6-22-81)

Sec. 33-26. Driver's license to be signed, numbered by Clerk; expiration date.

A taxicab driver's license shall be signed by the City Clerk, numbered in the order granted, and, unless sooner suspended or revoked, shall continue in force until the first day of July next after the date thereof. (1942 Rev. Code, Ch. XLI, Sec. 13; Ord of 3-14-46)

Sec. 33-26.1 Driver's license renewals; appeal upon denial.

A taxicab driver's license may be renewed by the City Clerk, upon the recommendation of the Chief of Police and payment of the license renewal fee as established in Section 20-4 of this Code. A denial of such renewal may be appealed to the Municipal Officers. (Ord. of 4-24-72)

Editor's note – Ordinance of April 24, 1972, amended this Code by adding provisions designated as Sec. 23-37, which section has been redesignated by the editors as Sec. 33-26.1 for the purposes of classification.

Sec. 33-27. Clerk to deliver badge, ID card to licensed driver, wearing, display regulated.

- (a) Upon issuance of a license to a taxicab driver, the City Clerk shall deliver to the licensee a metal badge bearing the words "Taxi --Westbrook, Maine" and the number of the license, which shall be worn conspicuously upon the front of the hat or cap or on the outside coat of the licensee when he is operating a taxicab; the Clerk shall also deliver to the licensee an identification card, to be signed by him, setting forth the number and terms of the license, name of the licensee, and a photograph of himself of such size as the Clerk may require; two (2) such photographs shall be provided by the applicant at his expense.
- (b) No person holding a license as a taxicab driver shall at any time permit or allow any other person to wear such badge. The identification shall be displayed so that it may be plainly seen in each cab which the driver operates. (1942 Rev. code, Ch. XLI, Sec. 14; Ord. of 3-14-46)

Sec. 33-28. Fee for driver's license.

The fee for a taxicab driver's license shall be as established in section 20-4 of this Code. (1942 Rev. Code, Ch. XLI, Sec. 13; Ord. of 3-14-46)

Sec. 33-29. Violation of State, local regulations to be grounds for revocation.

Violation of any of the provisions of the highway laws of the State, or of the ordinances of the City regulating traffic, shall be grounds for revocation of licenses, both of the driver and the person operating such taxicab. (1942 Rev. Code, Ch. XLI, Sec. 20; Ord. of 3-14-46)

Sec. 33-30. Licenses subject to revocation.

Licenses issued pursuant to this chapter may be revoked at any time for violation of this chapter or for any other cause the Municipal Officers may deem sufficient grounds for the revocation of such license. (1942 Rev. Code, Ch. XLI, Sec. 19; Ord. of 3-14-46)

Sec. 33-31. Number of cabs determined by population.

A license for one (1) taxicab will be issued for each fifteen hundred (1500) population in the City. (1942 Rev. Code, Ch. XLI, Sec. 10; Ord. of 3-04-46; Ord. of 9-02-47)

Sec. 33-32. Taximeter required.

Every taxicab shall be equipped with a taximeter, tested, approved and sealed by the sealer of weights and measures, and so connected as to accurately represent the distance traveled, but not connected to the driving wheels. (1942 Rev. Code, Ch. XLI, Sec. 10; Ord. of 3-04-46)

Sec. 33-33. Taximeter to be accurate; locations.

Each taximeter shall be adjusted so as to accurately calculate the rates of fare hereinafter set forth and shall show such far in clear and distinct figures.

The taximeter shall be so placed that the dial, thereof is in plain view of the passenger and shall be equipped with a light so reflected as to enable the passenger to read the fare. (1942 Rev. Code, Ch. XLI, Sec. 11; Ord. of 3-14-46)

Sec. 33-34. Fare schedule.

- (a) *Within City limits.* The maximum fare for taxicab service solely within Westbrook city limits shall be one Dollar and ten cents (\$1.40) for the first one-ninth($1/9$) of a mile or fraction thereof; and twenty-five cents (\$0.25) for each one-ninth of a mile or fraction thereof, thereafter. The fare to be collected shall be computed and displayed by the taximeter.
- (c) *Outside metered zone.* If a trip begins or ends within the City of Westbrook, and the other point of destination is outside city limits, the passenger and driver shall agree upon the fare before the trip commences; otherwise, the passenger shall be under no obligation to pay any fare.
- (d) *Waiting time.* The charge for waiting time shall be at the rate of twenty-five cents (\$0.25) per minute. No charge shall be made for delay due to the inefficiency of a taxicab or its driver, traffic delay, or for the time between premature arrival and the hour for which the taxicab was ordered. (1942 Rev. Code, Ch. XLI, Sec. 12; Ord. of 3-14-46; Ord. of 10-07-68; Ord. of 2-18-75; Ord. of 8-06-79; Ord. of 6-22-81; Ord. of 5-10-99)

Sec. 33-35. Operators to present cabs for inspection.

Every person operating a taxicab business shall present its taxicabs for inspection to the Chief of Police at least two (2) times, once in the month of June and once in December of each year and at any other time when so required by the Chief of Police. (1942 Rev. Code, Ch. XLI, Sec. 16; Ord. of 3-14-46; Ord. of 2-18-75)

Sec. 33-36. Carrying additional passengers regulated; maximum number; seating.

No driver of a taxicab shall carry any other person than the passenger first employing him without the consent of the first passenger; in no event shall the number of passengers exceed five. No person other than a passenger for hire shall occupy the seat adjacent to the operator of the taxicab. (1942 Rev. Code, Ch. XLI, Sec. 12; Ord. of 3-14-46)

Sec. 33-37. Required markings.

Every taxicab shall be conspicuously marked "Taxicab" in letters not less than one and one-half (1 ½) inches in height. (1942 Rev. Code, Ch. XLI, Sec. 17; Ord. of 3-14-46)

Chapter 34
WEAPONS AND EXPLOSIVES

- Art. I. In General, Secs. 34-1 – 34-13
Art. II. Disposition of Handguns, Secs. 34-14 – 34-18

ARTICLE I. IN GENERAL

Sec. 34-1. No hunting allowed; permit to discharge firearms required.

No person shall hunt with the use of a firearm within the City limits of Westbrook. Neither shall any person, without a permit from the Chief of Police, fire or discharge any gun, fowling piece, cannon, or firearm within the municipal boundaries, except in the performance of official military or law enforcement duties or in lawful self-defense. Nothing contained herein shall be construed to prevent the possession of firearms on one's own domicile nor prevent their transportation to a municipality allowing discharge of firearms. (1942 Rev. Code, Ch. XXVIII, Sec. 1; Ord. of 5-18-87)

Sec. 34-2. Toy guns, cannons, etc., not to be sold, discharged; railroad excepted.

No person shall at any time sell or keep for sale, discharge or set off anywhere within the limits of the City, or have in his possession for such purpose, any toy pistol, toy gun, toy cannon or cane that can be used to fire a blank cartridge or potash and sulfur pellet, any fire balloon or blank cartridge. This section shall not apply to the use of signal torpedoes by railroads in the operation of their trains, to paper cap pistols or paper caps. (1942 Rev. Code, Ch. XXVIII, Sec. 2)

Sec. 34-3. License to sell gunpowder; storage regulations; penalty.

No person shall keep or expose for sale, discharge or set off anywhere within the limits of the City, or have in his possession for such purpose, any toy pistol, toy gun, toy cannon or cane that can be used to fire a blank cartridge or potash and sulfur pellet, any fire balloon or blank cartridge. This section shall not apply to the use of signal torpedoes by railroads in the operation of their trains to paper cap pistols or paper caps. (1942 Rev. Code, Ch. XXVIII, Sec. 2)

Sec. 34-3. License to sell gunpowder; storage regulations; penalty.

No person shall keep or expose for sale any gunpowder or other explosive substance without having first procured a license to that effect from the Mayor, and no such license shall be issued until the person applying for such license shall have agreed that such explosives shall at all time be placed near the outer door of the building in which it is kept, in a convenient place for removal in case of fire, and it shall be the duty of the Chief Engineer of the Fire Department to visit the stores and shops of all licensed keepers of explosives to see that this agreement is complied with. (1942 Rev. Code, Ch. XV, Sec. 16)

State law reference – State regulation of explosives, municipal authority to regulate explosives, 25 M.R.S.A. Sec. 2441.

Secs. 34-4 – 34-13. Reserved.

ARTICLE II. DISPOSITION OF HANDGUNS⁷⁰

Sec. 34-14. Handgun defined.

A handgun shall mean a firearm having a barrel length of less than fifteen (15) inches and designed and intended to be fired with one hand, using fixed ammunition. (1942 Rev. Code, Ch. XXVIII-A, Sec. 2; Ord. of 12-01-69)

Sec. 34-15. Disposition regulated.

No person in the City shall sell, give or deliver to any person any handgun as hereinbefore defined, except in accordance with the provisions of the following sections. (1942 Rev. Code, Ch. XXVIII-A, Sec. 1; ord. of 12-01-69)

Sec. 34-16. Purchaser, etc., to sign certificate; contents; penalty.

(a) A person selling, giving or delivering a handgun to any person shall require such person to sign a certificate containing the following information:

Name _____ Driver's license no. _____
Date of birth _____ Draft card no. _____
Address _____ How long as such address _____
Occupation _____ Present employer _____
Physical description – Sex; Ht; Wgt; Color Hair; Color Eyes: _____
Distinguishing marks _____
Have you ever been convicted of assault, assault and battery, or a felony? _____
If so, description thereof _____
Are you under complaint or indictment for assault, assault and battery or a felony? _____
If so, description thereof _____
Are you under complaint or indictment for assault, assault and battery or a felony? _____
If so, description thereof _____
Are you a user of or addicted to marijuana or any other depressant stimulant or narcotic drug? _____
Have you ever been judged by a court as a mental defective or been committed to, or voluntarily been a patient at, a mental institution? _____ If so, where? _____
Signature: _____

⁷⁰ **State law references** – Record to be made of sales of firearms and opened for inspection prior to delivery, 15 M.R.S.A. Sec. 455; selling firearms to children regulated, 17 M.R.S.A. Sec. 853.

- (b) No person shall sign a certificate required by this section containing false information for the purpose of complying with the provisions of this article. (1942 Rev. Code, Ch. XXVIII-A, Secs. 3, 6; Ord. of 12-01-69)

Sec. 34-17. Police Chief to run investigation on purchasers.

One disposing of a handgun shall deliver the certificate required by the preceding section to the Chief of Police at Police Headquarters, and the Chief shall have seven (7) days after receipt of such certificate to make an examination of the records contained in the Police Department and in the State Police Headquarters, in Augusta, Maine, or other departments, to determine from such records whether the person signing such certificate has been convicted of, or is under complaint or indictment for, assault, assault and battery or a felony; is a user of or addicted to marijuana or any other depressant, stimulant or narcotic drug; or committed to, or voluntarily been a patient at, a mental institution and to report such findings to the person filing such certificate. (1942 Re. Code, Ch. XXVIII-A, Sec. 4; Ord. of 12-01-69)

Sec. 34-18. Conveyance prior to investigation, when knowing purchaser's defects.

Any person selling, giving or delivering a handgun to any person before the expiration of the seven (7) day period referred to in Section 34-17 or when notified within such period by the Chief of Police that a person signing such certificate has been convicted of, or is under complaint or indictment for, assault, assault and battery or a felony; is a user of or addicted to marijuana or any other depressant, stimulant or narcotic drug; or has been judged by a court as a mental defective or has been committed to, or voluntarily been a patient at, a mental institution shall be guilty of a violation of this article and subject to the penalty provisions of Section 1-8 of this Code. (1942 Rev. Code, Ch. XXVIII-A, Sec. 5; Ord. of 12-01-69)

Chapter 35
WESTBROOK CABLE TELEVISION ORDINANCE

Sec. 35-1. Definitions.

- (a) *Cable Television System* shall mean any community antennae system or facility that, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire or cable to subscribing members of the public who pay for such services, but such term shall not include any such facility that serves only the residents of one or more apartment dwellings under common ownership, control or management.
- (b) *Cable Television Company* shall mean any person, firm or corporation owning, controlling, operating, managing or leasing a cable television system within the City of Westbrook, sometimes hereinafter referred to as “the company”.
- (c) *City* shall mean the City of Westbrook and the area within its territorial city limits, and where applicable its officers and representatives. (Ord. of 4-07-75)

Sec. 35-2. Franchise required.

No person, firm, or corporation shall install, maintain or operate within the City or any of its public streets or other public areas any equipment or facilities for the operation of a cable television system unless a franchise authorizing the use of said public streets or area has first been obtained pursuant to the provisions of this chapter and unless said franchise is in full force and effect. (Ord. of 4-07-75)

Sec. 35-3. Franchise contract.

- (a) The Municipal Officers of the City may contract on such terms, conditions and fees as are in the best interests of the municipality and its residents with a cable television company for the operation of a cable television system throughout the City, including the granting of an exclusive franchise for the operation thereof for a period not to exceed ten (10) years.
- (b) Applicants for a franchise shall pay a nonrefundable filing fee to the City of twenty-five dollars (\$25.00) to defray the cost of public notice, and advertising expenses relating to such applications. The applications shall be filed with the City Clerk and shall contain such information as the City may require, including but not limited to a general description of the applicant’s proposed operation, a schedule of proposed charges, a statement detailing its business or corporate organization with a financial statement for the two (2) previous fiscal years, an estimated ten-year financial projection of its proposed system and its proposed annual city franchise fee or the basis for same, and a statement detailing the prior operational experience of the applicant in both CATV and microwave service including that of its officers, management and staff to be associated with the proposed operation.
- (c) Said franchise contract may be revoked by the Municipal Officers for good and sufficient cause after due notice to the company and a public hearing thereon; with

the right to appeal to the Cumberland County Superior Court under Rule 80-B of the Court Rules of Civil Procedure in accordance with due process. (Ord. of 4-07-75)

Sec. 35-4. Public hearing.

Before authorizing the issuance of any such franchise contract, the Municipal Officers shall review the applicant's character, financial and technical qualifications and the adequacy and feasibility of its qualifications to operate a cable television system throughout the City, and shall conduct a public hearing thereon with at least seven (7) days advertised notice prior to said public hearing. (Ord. of 4-07-75)

Sec. 35-5. Performance bond and insurance coverage.

- (a) The company shall secure and file in the Office of the City Clerk a performance bond in the amount of one hundred thousand dollars (\$100,000) conditioned upon the full and faithful performance of the duties, undertakings, covenants, terms, conditions and agreements of the Westbrook cable television franchise contract as they relate to the construction of the cable television system. All of the obligations under this performance bond shall become void upon the completion and acceptance by the Municipal Officers, after reviewing the recommendations of the Cable TV Regulatory Board, of the cable television system in conformance with the said duties, undertakings, covenants, terms, conditions and agreements of the Westbrook cable television franchise contract.
- (b) The company shall secure and file evidence of such public liability insurance coverage as the Municipal Officers may require. (Ord. of 4-07-75; Ord. of 12-06-76)

Sec. 35-6. Cable TV Regulatory Board established; composition; appointment, term of members.

There is hereby established a five (5) member Cable TV Regulatory Board which shall be composed of residents of the City with one member from each of the five (5) voting wards. Said members shall be appointed by the Mayor, subject to the approval of the City Council, and the initial members shall be appointed as follows: Two (2) for a term of one year, two (2) for two (2) years, and one for three (3) years. Thereafter all subsequent appointments except to fill vacancies, shall be for a term of three (3) years. And they shall serve until their successors are appointed. Persons, or any of their immediate family, who receive any form of remuneration from or who own stock in the cable television company, or its affiliates, shall not be qualified for appointment or for service on said Board. (Ord. of 4-07-75)

Sec. 35-7. Duties of Board.

The board shall have a chairman, vice-chairman, and a secretary and shall have the following duties:

- (a) Adopt such rules and regulations as it may deem necessary for monitoring and regulating the operation of the system, subject to the approval of the Council.

- (b) Make recommendations to the cable television company concerning educational and local interest programming.
- (c) Resolve complaints, disputes, or disagreements between subscribers and the company.
- (d) Have the authority to conduct public hearings and issue such appropriate orders as it may deem necessary to correct any deficiencies in the operation of said system. The Board's decisions and findings shall be final and binding upon all parties including the Company, except such a decision or finding may be appealed to the Municipal Officers and/or to the Cumberland County Superior Court under said Rule 80-B.

All such rules, regulations and orders of the Board shall not be in conflict with those that have been or may be adopted by the Federal Communications Commission for the operation of such systems. (Ord. of 4-07-75)

